HOUSE OF REPRESENTATIVES—*Tuesday, July 9, 1991*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

From the rising of the Sun until the going down of the same, we are aware, O God, of power in the universe, whether it be in the power of nature, or the power of the armies, or the power of any might. Teach us also, gracious God, to sense the power of the spirit—a power that transforms lives and makes all things new. As You have blessed each of us with all good gifts and have breathed into us the very breath of life, so too may we become aware of the gift of Your spirit in our lives—a spirit that enlightens, that strengthens, that heals, that gives the peace, and reconciliation that can transform our lives and the lives of others. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from North Carolina [Mr. BALLENGER] please come forward and lead the House in the Pledge of Allegiance.

Mr. BALLENGER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1455. An act to authorize appropriations for fiscal year 1991 for intelligence activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1455) entitled "An Act to authorize appropriations for fiscal year 1991 for intelligence activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints from the Select Committee on Intelligence: Mr. BOREN, Mr. NUNN, Mr. HOLLINGS, Mr. BRADLEY, Mr. CRANSTON, Mr. DECONCINI, Mr. METZENBAUM, Mr. GLENN, Mr. MURKOWSKI, Mr. WARNER, Mr. D'AMATO, Mr. DANFORTH, Mr. RUDMAN, Mr. GORTON, and Mr. CHAFEE; from the Committee on Armed Services: Mr. EXON and Mr. THURMOND; to be the conferees on the part of the Senate.

RESIGNATION AS MEMBER OF COMMITTEE ON THE BUDGET

The SPEAKER laid before the House the following resignation as a member of the Committee on the Budget.

WASHINGTON, DC,
May 22, 1991.

Hon. THOMAS S. FOLEY,
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Effective close of business on June 30, 1991, I hereby resign my position on the House Budget Committee.

Sincerely,

DICK ARMEY,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON THE BUDGET

Mr. MICHEL. Mr. Speaker, I offer a privileged resolution (H. Res. 188) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 188

Resolved, That Representative Paxon of New York be and is hereby elected to the Committee on the Budget.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
July 8, 1991.

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following messages from the Secretary of the Senate:

1. Received at 9:40 a.m. on Friday, June 28, 1991: That the Senate passed without amendment, H.J. Res. 259.

2. Received at 7:00 p.m. on Friday, June 28, 1991: That the Senate passed without amendment, H.R. 2332.

With great respect, I am

Sincerely yours,

DONNALD K. ANDERSON,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill and joint resolutions on Friday, June 28, 1991:

S. 674. An act to designate the building in Monterey, TN, which houses the primary operations of the U.S. Postal Service as the "J.E. (Eddie) Russell Post Office Building", and for other purposes;

H.J. Res. 72. Joint resolution to designate December 7, 1991, as "National Pearl Harbor Rememberance Day";

H.J. Res. 138. Joint resolution designating the week beginning July 21, 1991, as "Lyme Disease Awareness Week";

H.J. Res. 149. Joint resolution designating March 1991 as "Women's History Month"; and

H.J. Res. 259. Joint resolution designating July 2, 1991, as "National Literacy Day."

The following enrolled bill was signed by the Speaker pro tempore on Monday, July 1, 1991:

H.R. 2332. An act to amend the Immigration Act of 1990 to extend for 4 months the application deadline for special temporary protected status for Salvadorans.

APPOINTMENT OF MEMBER TO ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

The SPEAKER. Pursuant to the provisions of section 3(a) of Public Law 86–380, and the order of the House of June 26, 1991, empowering the Speaker to make appointments authorized by law or by the House, the Chair on June 28, 1991, did appoint to the Advisory Commission on Intergovernmental Relations on the part of the House the gentleman from New Jersey [Mr. PAYNE].

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation from the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 1, 1991.

Hon. THOMAS S. FOLEY,
Speaker, The Capitol, Washington, DC.

DEAR MR. SPEAKER: As the result of a recently diagnosed illness, I regretfully find myself unable to continue to serve the people of the Seventh Congressional District at the necessary level of personal commitment they expect and deserve. Therefore, on advice of my personal physician and after consultation with my family, I have today notified the Honorable Lawrence Douglas Wilder, Governor of the Commonwealth of Virginia, of my resignation as the Representative of the Commonwealth of Virginia in the House of Representatives of the Congress of the United States for the Seventh Congressional District effective November 5, 1991.

This decision has been an extremely difficult one for me to make. I have spent a good portion of my life serving the citizens of the Commonwealth, first as a Member of the General Assembly for twenty years, then as a Member of the House for more than six years. While it has been a great privilege and honor to serve in this House, I have reluctantly concluded that the recent impairment to my health prevents me from continuing my service. I thank the people of the Commonwealth and the Seventh Congressional District for placing their trust in me. I hope that I have served them well.

With kindest personal regards.

Sincerely,

D. FRENCH SLAUGHTER, Jr.,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, July 1, 1991.

Hon. L. DOUGLAS WILDER,
Governor, Commonwealth of Virginia, Office of the Governor, Richmond, VA.

DEAR GOVERNOR WILDER: As the result of a recently diagnosed illness, I regretfully find myself unable to continue to serve the people of the Seventh Congressional District at the necessary level of personal commitment they expect and deserve. Therefore, on advice of my personal physician and after consultation with my family, I hereby announce my resignation as the Representative of the Commonwealth of Virginia in the House of Representatives of the Congress of the United States for the Seventh Congressional District effective November 5, 1991.

I tender my resignation as of the stated date so that the citizens of the Seventh Congressional District will continue to be represented until a successor can be timely elected. I have also consciously followed this schedule in order to permit a Special Election at the time of the regularly scheduled November 5, 1991, General Election in order to avoid any undue expense to the Commonwealth and the localities within the Seventh Congressional District in the conduct of the Special Election.

This decision has been an extremely difficult one for me to make. I have spent a good portion of my life serving the citizens of the Commonwealth, first as a Member of the General Assembly for twenty years, then as a Member of Congress for more than six years. While it has been a great privilege and honor to serve, I have reluctantly concluded that the recent impairment to my health prevents me from continuing my service. I thank the people of the Commonwealth and the Seventh Congressional District for placing their trust in me. I hope that I have served them well.

With kindest personal regards.

Sincerely,

D. FRENCH SLAUGHTER, Jr.,
Member of Congress.

RESIGNATION AS MEMBER OF COMMITTEE ON SMALL BUSINESS

The SPEAKER laid before the House the following resignation as a member of the Committee on Small Business:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 28, 1991.

Hon. THOMAS FOLEY,
Speaker, House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: Due to my recent appointment to the Science, Space, and Technology Committee, I am writing to resign as a member of the House Small Business Committee.

During my two and a half years on the Small Business Committee, it has explored and addressed many interesting matters affecting the small business community. I have found my work on the committee exciting and challenging.

I have enjoyed the opportunity to serve under the able leadership of Chairman LaFalce. I look forward to working with Chairman Brown and all of my colleagues on the important issues facing the 102nd Congress.

Sincerely,

ELIOT L. ENGEL,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 1455, INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1991

Mr. MCCURDY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1455) to authorize appropriations for fiscal year 1991 for intelligence activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma? The Chair hears none, and appoints the following conferees and, without objection, reserves the right to appoint additional conferees:

From the Permanent Select Committee on Intelligence: Mr. MCCURDY, Mr. WILSON, Mrs. KENNELLY, and Messrs. GLICKMAN, MAVROULES, RICHARDSON, SOLARZ, DICKS, DELLUMS, BONIOR, SABO, OWENS of Utah, SHUSTER, COMBEST, BEREUTER, DORNAN of California, YOUNG of Florida, MARTIN and GEKAS.

From the Committee on Armed Services, for the consideration of Department of Defense tactical intelligence and related activities and section 505 of both the House bill and the Senate amendment: Messrs. ASPIN, SKELTON, and DICKINSON.

There was no objection.

THANKS TO RESIDENTS OF GUAM, AND RECONSIDER NEED FOR BASES IN PHILIPPINES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I rise with two things to talk about this morning: No. 1, I think everyone in this body owes a tremendous debt of gratitude to the wonderful residents of Guam, U.S.A. We do not think about that territory very often, but they have just executed the largest peacetime evacuation in the history of the planet. They have taken care of over 19,000 people coming out of the Philippines, 1,300 pets, and all sorts of other things.

Mr. Speaker, they did it with incredible, incredible grace and style. I think we all want to sincerely thank them.

Mr. Speaker, I also want to say that from the photographs and things we are seeing in the Philippines, I think we ought to send a very clear message: That this body, with its budget constraints, with the lessening threat in the Pacific, with so many bases having been closed domestically, is not going to be willing to run out and spend billions of dollars to clean up bases, when we have absolutely no idea if the volcano will go off again and will restart the whole cycle.

Mr. Speaker, it has been a great tragedy and people have reacted very well, but I think we want to send a real monetary message, that there is not a lot of money in the kitty, it is running out, and I think it is time that we probably put a close to that chapter.

□ 1210

DWIGHT D. EISENHOWER HONORED FOR HIS COMMITMENT TO SMALL BUSINESS

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, this afternoon Small Business Administrator Patricia Saiki will dedicate the conference room at the new SBA headquarters in memory of President Dwight D. Eisenhower. She will be accompanied at the dedication by the late President's granddaughter, Susan Eisenhower.

Mr. Speaker, of all the many tributes paid President Eisenhower over the years, this is surely one of the most deserving, for it was Dwight D. Eisenhower who created the Small Business Administration. When the House-passed legislation authorizing the SBA

started to languish in the Senate he sent word that he wanted the bill passed immediately. As a result, the Senate took up and passed by voice vote the amended House version. On July 30, 1953, President Eisenhower signed the bill and the Small Business Administration was born.

President Eisenhower did not just say he was for small business; he acted on his convictions. My colleagues, all of us in Congress can learn from his example. It's easy to say we're for small business, but it's how we vote that really counts.

SWEARING IN THE KENTUCKIANA MARINE PLATOON

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, over the years I have had a chance to take part in many ceremonies, ceremonies of graduation, ceremonies of retirement, ceremonies of installation, ceremonies of investiture. But I have never had the opportunity until Thursday, the Fourth of July, to take part in the ceremony of induction.

I had the pleasure of swearing in 55 young recruits, from Kentucky and southern Indiana, into the Marine Corps in Cardinal Stadium back home in Louisville.

It was a moving ceremony. I had the chance, both before and after the ceremony, to speak with these young recruits, to shake their hands and to talk with them. And of course, one can tell a great deal about human beings from the eyes. The eyes are said to be the window of the soul.

The eyes of these 55 recruits tell me they will be good Marines and they will be great Americans.

I would like to salute Maj. David Breen, who is the commandant of the Marine recruiting station in Louisville, and the two sergeants, Sgt. Steve Grimes and Drew Milburn, who were so helpful in setting up the ceremony.

I believe, Mr. Speaker, that our Armed Forces are in good shape with young recruits like the ones I was privileged to swear into the Marine Corps last Thursday.

SOAK THE RICH LUXURY TAX SHOULD BE REPEALED

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the 10 percent soak the rich luxury tax incorporated in last year's budget reconciliation bill is having a devastating impact on many of this Nation's workers. No business has been harder hit than the boating industry.

Comparing first quarter large boat sales in 1990 and 1991 reveals an 85 percent sales decrease. Since these boats are traditionally recession-proof, only a slight portion of this decline can be attributed to a sluggish economy. Furthermore, over the same time period, sales of pleasure boats under $100,000 have only dropped 20 percent. Obviously, the new luxury tax is to blame for this huge sales decrease.

This dramatic sales loss has cost thousands of workers their jobs by forcing drastic production cutbacks or outright closings of boatyards from Maine to Florida. For example, Hatteras Yachts has closed 4 of 6 production lines at their High Point, NC plant, causing almost 300 workers to lose their jobs.

Related industries have been deeply hurt as well. As a result of a drop in demand, 275 employees who produced fiberglass for yachts at the PPG plant in Shelby, NC, have found themselves out of work.

Instead of soaking the rich, Congress has only forced many hard-working American citizens to draw unemployment checks. Hopefully, we can work for tax fairness by repealing these detrimental taxes.

ISOLATING CHINA IS NOT THE ANSWER: CONTINUE MFN STATUS

(Mr. ANDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON. Mr. Speaker, after careful consideration of this difficult policy question, I have concluded that we should approve continued most-favored-nation status to the People's Republic of China. I do not stand here today to defend the actions of the People's Republic of China. We all have been outraged by China's deplorable human rights abuses, their indiscriminate sales of nuclear weapons and technology, and their violations of international trade practices.

I stand to defend Americans, Americans whose jobs and businesses depend on continued trade with China. Americans who have invested their effort and resources into encouraging economic and political reform within China. Quite honestly, I stand to defend all Americans, for certainly every one of us will benefit from improved relations with a nation of over a billion people.

China's human rights abuses, whether against pro-democracy activists in Tiananmen Square or Tibet, have been well documented. While China's actions have been unquestionably deplorable, we must determine if revoking most-favored-nation status will correct their policies. I submit that manipulation of MFN is an inappropriate instrument with which to address these concerns. There are other, more exact means available to express our disapproval of China's policies. We cannot realistically expect to encourage change in China by severing our relations with them. In fact, history clearly illustrates that isolating China and imposing economic self-sufficiency upon her people has lead to brutal periods of government repression.

I do not, however, advocate turning a blind eye to China's abuses. The United States immediately condemned and sanctioned the horrors of Tiananmen Square, and more than 2 years later we remain the only Western democracy still imposing such sanctions. We could also become the only country to rescind MFN status to China, but without international support for our position, substantive changes in Chinese policies would be unlikely. I strongly urge that we use our influence to promote tolerance and peaceful dissent within China.

Western influence has already initiated free-market-oriented reforms in the coastal provinces neighboring Hong Kong. Discontinuing most-favored-nation status would severely hurt those regions of the country that promise to lead the way for China's reform. The continued free flow of products, information, and ideas from the West is critical to any hopes the Chinese people have for peacefully modernizing their country.

This debate boils down to one very basic question: What approach promises the best chance to alter China's behavior? I believe extending MFN status, while not a perfect solution, does offer us the best opportunity to promote meaningful reforms in China, while continuing to advance our own national interests.

AS WE APPROACH JULY 26

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, in Cuba these days, Fidel Castro is most likely busily preparing for his annual verbal assault on the Free World, his infamous marathon speech on July 26. But today we read that Castro is also busily continuing his assault on the Cuban people, reportedly cashing in on their misery on the order of a million dollars a week. It seems that Castro—the Western Hemisphere's last Marxist dictator—is selling the only commodity he's got left that's worth anything, his own people.

Today and everyday in Miami, Cuban immigrants, desperate for a way out of the black hole that Castro has made of their country, are scraping together the minimum $500 worth of ransom, defined in Cuba as a visa fee, and heading on a 1-way trip to America. They start off by paying Castro's price for a tourist visa, and some predict as many as 30,000 a year will never go back. There is an additional, troubling aspect to the current situation, especially for

Florida. We would like to be able to offer housing, schooling, medical care, and jobs, but Florida cannot and should not be expected to shoulder the burden alone.

EXTEND MFN TO CHINA WITHOUT CONDITIONS

(Mr. BARRETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT. Mr. Speaker, the debate on renewing most-favored-nation trade status to the Peoples Republic of China has focused on two options: placing conditions on MFN, or rejecting MFN altogether.

After a careful review of this issue, I have come to the firm conclusion that we must renew MFN to China without conditions.

While I detest the crackdown by the Chinese Government on prodemocracy forces, I am unconvinced that placing conditions, or rejecting MFN, will help the forces of democracy in China effect change. Indeed, I fear that placing conditions on MFN may place harmful and counterproductive conditions on those striving for democracy in China.

Many claim the human rights abuses being committed by the Communist government deserve a response by our Government; I agree. But our reply should be one that will effect a positive change in China. That can be best accomplished by extending most-favored-nation trade status without conditions.

HOUSE BILL 2595, PLACING CEILING ON NUMBER OF FEDERAL EMPLOYEES

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, over the last couple of weeks we have seen an awful lot of activity going on among States and cities with respect to employees and laying off employees, having to put furloughs on employees. It has been a very difficult situation in a number of States and cities.

I want to bring to the attention of my colleagues House bill 2595, which was introduced by myself and 12 others about 2 weeks ago, which would have the effect of putting a ceiling on the number of Federal employees at this year's Presidential budget of 2.9 million employees.

The purpose of this bill is twofold: One is to add another important leg to the efforts to control Federal spending. One is a line-item veto. The second is a balanced budget amendment, and I think the third is to put some limitation on Federal employees.

□ 1220

The other is to protect our good Federal employees who do such a great job for all of us by trying to avoid this business of having to lay people off when there are too many employees and not enough money.

Mr. Speaker, I would urge my colleagues to take a look at this as another one of those steps that would cause us to be able to treat the employees as they should be treated as Federal employees for the great job they do and yet do something about reducing the Federal budget. I would ask you to take a look at H.R. 2595.

OUR DRUG WAR IS FAR FROM OVER

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, we have been informed by our drug agencies that our efforts in the war on drugs have resulted in a decrease in both cocaine use and overall drug addiction nationwide. Despite this encouraging news, our drug war is far from over. Recent projections for heroin supply indicates an alarming increase over the next few years.

Worldwide production of heroin has doubled since 1986 and at the same time heroin purity has increased eightfold along the east coast. The booming supply of heroin leads to lower prices and greater availability.

The consequences of increased drug abuse are grave. Besides the potential for overdosing, there is the resultant dramatic increase in the spread of AIDS and hepatitis B due to the use of dirty needles by drug users. Along with the hazards confronting users themselves, our Nation's innocent citizens face a great deal of danger. The FBI has recently reported that murder, rape, robbery, and aggravated assault have increased 10 percent nationwide between 1986 and 1990. This dramatic increase is mostly attributed to drug use and trafficking. As I have reported in the past, 85 percent of those arrested for violent crimes in this country test positive for drugs.

Mr. Speaker, I am deeply concerned and so are our constituents throughout the Nation. Fighting this scourge must be our highest priority. We must help our communities become drug free and we must give our Nation's police officers and drug enforcement agents the necessary resources to fight our war on drugs and crime.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, July 10, 1991.

EMERGING TELECOMMUNICATIONS TECHNOLOGIES ACT OF 1991

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 531) to establish procedures to improve the allocation and assignment to the electromagnetic spectrum, and for other purposes, as amended.

The Clerk read as follows:

H.R. 531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emerging Telecommunications Technologies Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Federal Government currently reserves for its own use, or has priority of access to, approximately 40 percent of the electromagnetic spectrum that is assigned for use pursuant to the Communications Act of 1934;

(2) many of such frequencies are underutilized by Federal Government licensees;

(3) the public interest requires that many of such frequencies be utilized more efficiently by Federal Government and non-Federal licensees;

(4) additional frequencies are assigned for services that could be obtained more efficiently from commercial carriers or other vendors;

(5) scarcity of assignable frequencies for licensing by the Commission can and will—

(A) impede the development and commercialization of new telecommunications products and services;

(B) limit the capacity and efficiency of the United States telecommunications systems;

(C) prevent some State and local police, fire, and emergency services from obtaining urgently needed radio channels; and

(D) adversely affect the productive capacity and international competitiveness of the United States economy;

(6) a reassignment of these frequencies can produce significant economic returns; and

(7) the Secretary of Commerce, the President, and the Federal Communications Commission should be directed to take appropriate steps to correct these deficiencies.

SEC. 3. NATIONAL SPECTRUM PLANNING.

(a) PLANNING ACTIVITIES.—The Assistant Secretary of Commerce for Communications and Information and the Chairman of the Commission shall meet, at least biannually, to conduct joint spectrum planning with respect to the following issues—

(1) the future spectrum requirements for public and private uses, including State and local government public safety agencies;

(2) the spectrum allocation actions necessary to accommodate those uses; and

(3) actions necessary to promote the efficient use of the spectrum, including spectrum management techniques to promote increased shared use of the spectrum that does not cause harmful interference as a means of increasing commercial access.

(b) REPORTS.—The Assistant Secretary of Commerce for Communications and Information and the Chairman of the Commission shall submit a joint annual report to the Committee on Energy and Commerce of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the

Secretary, and the Commission on the joint spectrum planning activities conducted under subsection (a) and recommendations for action developed pursuant to such activities.

(c) REPORTING REQUIREMENTS.—The first annual report submitted after the date of the report by the advisory committee under section 4(d)(4) shall—

(1) include an analysis of and response to that committee report; and

(2) include an analysis of the effect on spectrum efficiency and the cost of equipment to Federal spectrum users of maintaining separate allocations for Federal Government and non-Federal Government licensees for the same or similar services.

SEC. 4. IDENTIFICATION OF REALLOCABLE FREQUENCIES.

(a) IDENTIFICATION REQUIRED.—The Secretary shall, within 24 months after the date of the enactment of this Act, prepare and submit to the President and the Congress a report identifying bands of frequencies that—

(1) are allocated on a primary basis for Federal Government use and eligible for licensing pursuant to section 305(a) of the Act (47 U.S.C. 305(a));

(2) are not required for the present or identifiable future needs of the Federal Government;

(3) can feasibly be made available, as of the date of submission of the report or at any time during the next 15 years, for use under the Act (other than for Federal Government stations under such section 305);

(4) will not result in costs to the Federal Government, or losses of services or benefits to the public, that are excessive in relation to the benefits that may be obtained by non-Federal licensees; and

(5) are most likely to have the greatest potential for productive uses and public benefits under the Act.

(b) MINIMUM AMOUNT OF SPECTRUM RECOMMENDED.—

(1) IN GENERAL.—Based on the report required by subsection (a), the Secretary shall recommend for reallocation, for use other than by Federal Government stations under section 305 of the Act (47 U.S.C. 305), bands of frequencies that span a total of not less than 200 megahertz, that are located below 6 gigahertz, and that meet the criteria specified in paragraphs (1) through (4) of subsection (a). The Secretary may not include, in such 200 megahertz, bands of frequencies that span more than 20 megahertz and that are located between 5 and 6 gigahertz. If the report identifies (as meeting such criteria) bands of frequencies spanning more than 200 megahertz, the report shall identify and recommend for reallocation those bands (spanning not less than 200 megahertz) that meet the criteria specified in paragraph (5) of such subsection.

(2) MIXED USES PERMITTED TO BE COUNTED.—Bands of frequencies which the Secretary's report recommends be partially retained for use by Federal Government stations, but which are also recommended to be reallocated to be made available under the Act for use by non-Federal stations, may be counted toward the minimum spectrum required by paragraph (1) of this subsection, except that—

(A) the bands of frequencies counted under this paragraph may not count toward more than one-half of the minimum required by paragraph (1) of this subsection;

(B) a band of frequencies may not be counted under this paragraph unless the assignments of the band to Federal Government stations under section 305 of the Act (47 U.S.C. 305) are limited by geographic area, by time, or by other means so as to guarantee that the potential use to be made by such Federal Government stations is substantially less (as measured by geographic area, time, or otherwise) than the potential use to be made by non-Federal stations; and

(C) the operational sharing permitted under this paragraph shall be subject to coordination procedures which the Commission shall establish and implement to ensure against harmful interference.

(c) CRITERIA FOR IDENTIFICATION.—

(1) NEEDS OF THE FEDERAL GOVERNMENT.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(2), the Secretary shall—

(A) consider whether the band of frequencies is used to provide a communications service that is or could be available from a commercial carrier or other vendor;

(B) seek to promote—

(i) the maximum practicable reliance on commercially available substitutes;

(ii) the sharing of frequencies (as permitted under subsection (b)(2));

(iii) the development and use of new communications technologies; and

(iv) the use of nonradiating communications systems where practicable; and

(C) seek to avoid—

(i) serious degradation of Federal Government services and operations; and

(ii) excessive costs to the Federal Government and users of Federal Government services.

(2) FEASIBILITY OF USE.—In determining whether a frequency band meets the criteria specified in subsection (a)(3), the Secretary shall—

(A) assume such frequencies will be assigned by the Commission under section 303 of the Act (47 U.S.C. 303) over the course of not less than 15 years;

(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services;

(C) determine the extent to which the reallocation or reassignment will relieve actual or potential scarcity of frequencies available for licensing by the Commission for non-Federal use;

(D) seek to include frequencies which can be used to stimulate the development of new technologies; and

(E) consider the immediate and recurring costs to reestablish services displaced by the reallocation of spectrum.

(3) COMMERCIAL USE.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(4), the Secretary shall consider—

(A) the extent to which equipment is available that is capable of utilizing the band;

(B) the proximity of frequencies that are already assigned for commercial or other non-Federal use; and

(C) the activities of foreign governments in making frequencies available for experimentation or commercial assignments in order to support their domestic manufacturers of equipment.

(4) POWER AGENCY FREQUENCIES.—

(A) ELIGIBLE FOR MIXED USE ONLY.—The frequencies assigned to any Federal power agency may only be eligible for mixed use under subsection (b)(2) in geographically separate areas and shall not be recommended for the purposes of withdrawing that assignment. In any case where a frequency is to be shared by an affected Federal power agency and a non-Federal user, such use by the non-Federal user shall, consistent with the procedures established under subsection (b)(2)(C), not cause harmful interference to the affected Federal power agency or adversely affect the reliability of its power system.

(B) DEFINITION.—As used in this paragraph, the term "Federal power agency" means the Tennessee Valley Authority, the Bonneville Power Administration, the Western Area Power Administration, or the Southwestern Power Administration.

(d) PROCEDURE FOR IDENTIFICATION OF REALLOCABLE BANDS OF FREQUENCIES.—

(1) SUBMISSION OF PRELIMINARY IDENTIFICATION TO CONGRESS.—Within 12 months after the date of the enactment of this Act, the Secretary shall prepare and submit to the Congress a report which makes a preliminary identification of reallocable bands of frequencies which meet the criteria established by this section.

(2) CONVENING OF ADVISORY COMMITTEE.—Not later than the date the Secretary submits the report required by paragraph (1), the Secretary shall convene an advisory committee to—

(A) review the bands of frequencies identified in such report;

(B) advise the Secretary with respect to (i) the bands of frequencies which should be included in the final report required by subsection (a), and (ii) the effective dates which should be established under subsection (e) with respect to such frequencies;

(C) receive public comment on the Secretary's report and on the final report; and

(D) prepare and submit the report required by paragraph (4).

The advisory committee shall meet at least monthly until each of the actions required by section 5(a) have taken place.

(3) COMPOSITION OF COMMITTEE; CHAIRMAN.—The advisory committee shall include—

(A) the Chairman of the Commission and the Assistant Secretary of Commerce for Communications and Information, and one other representative of the Federal Government as designated by the Secretary; and

(B) representatives of—

(i) United States manufacturers of spectrum-dependent telecommunications equipment;

(ii) commercial carriers;

(iii) other users of the electromagnetic spectrum, including radio and television broadcast licensees, State and local public safety agencies, and the aviation industry; and

(iv) other interested members of the public who are knowledgeable about the uses of the electromagnetic spectrum.

A majority of the members of the committee shall be members described in subparagraph (B), and one of such members shall be designated as chairman by the Secretary.

(4) RECOMMENDATIONS ON SPECTRUM ALLOCATION PROCEDURES.—The advisory committee shall, not later than 36 months after the date of the enactment of this Act, submit to the Secretary, the Commission, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate, a report containing such recommendations as the advisory committee considers appropriate for the reform of the process of allocating the electromagnetic spectrum between Federal and non-Federal use, and any dissenting views thereon.

(e) TIMETABLE FOR REALLOCATION AND LIMITATION.—

(1) TIMETABLE REQUIRED.—The Secretary shall, as part of the report required by subsection (a), include a timetable that recommends immediate and delayed effective dates by which the President shall withdraw or limit assignments on the frequencies specified in the report.

(2) EXPEDITED REALLOCATION OF INITIAL 30 MHZ PERMITTED.—The Secretary may prepare and submit to the President a report which specifically identifies an initial 30 megahertz of spectrum that meets the criteria described in subsection (a) and that can be made available for reallocation immediately upon issuance of the report required by this section.

(3) DELAYED EFFECTIVE DATE.—The recommended delayed effective dates shall—

(A) permit the earliest possible reallocation of the frequency bands, taking into account the requirements of section 6(1);

(B) be based on the useful remaining life of equipment that has been purchased or contracted for to operate on identified frequencies;

(C) be based on the need to coordinate frequency use with other nations; and

(D) take into account the relationship between the costs to the Federal Government of changing to different frequencies and the benefits that may be obtained from commercial and other non-Federal uses of the reassigned frequencies.

SEC. 5. WITHDRAWAL OF ASSIGNMENT TO FEDERAL GOVERNMENT STATIONS.

(a) IN GENERAL.—The President shall—

(1) within 6 months after receipt of the Secretary's report under section 4(a), withdraw the assignment to a Federal Government station of any frequency which the report recommends for immediate reallocation;

(2) within such 6-month period, limit the assignment to a Federal Government station of any frequency which the report recommends be made immediately available for mixed use under section 4(b)(2);

(3) by the delayed effective date recommended by the Secretary under section 4(e) (except as provided in subsection (b)(4) of this section), withdraw or limit the assignment to a Federal Government station of any frequency which the report recommends be reallocated or made available for mixed use on such delayed effective date;

(4) assign or reassign other frequencies to Federal Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

(5) transmit a notice and description to the Commission and each House of Congress of the actions taken under this subsection.

(b) EXCEPTIONS.—

(1) AUTHORITY TO SUBSTITUTE.—If the President determines that a circumstance described in paragraph (2) exists, the President—

(A) may substitute an alternative frequency or band of frequencies for the frequency or band that is subject to such determination and withdraw (or limit) the assignment of that alternative frequency or band in the manner required by subsection (a); and

(B) shall submit a statement of the reasons for taking the action described in subparagraph (A) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2) GROUNDS FOR SUBSTITUTION.—For purposes of paragraph (1), the following circumstances are described in this paragraph:

(A) the reassignment would seriously jeopardize the national defense interests of the United States;

(B) the frequency proposed for reassignment is uniquely suited to meeting important governmental needs;

(C) the reassignment would seriously jeopardize public health or safety; or

(D) the reassignment will result in costs to the Federal Government that are excessive in relation to the benefits that may be obtained from commercial or other non-Federal uses of the reassigned frequency.

(3) CRITERIA FOR SUBSTITUTED FREQUENCIES.—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified by the report of the Secretary under section 4(a) unless the substituted frequency also meets each of the criteria specified by section 4(a).

(4) DELAYS IN IMPLEMENTATION.—If the President determines that any action cannot be completed by the delayed effective date recommended by the Secretary pursuant to section 4(e), or that such an action by such date would result in a frequency being unused as a consequence of the Commission's plan under section 6, the President may—

(A) withdraw or limit the assignment to Federal Government stations on a later date that is consistent with such plan, except that the President shall notify each committee specified in paragraph (1)(B) and the Commission of the reason that withdrawal or limitation at a later date is required; or

(B) substitute alternative frequencies pursuant to the provisions of this subsection.

(c) LIMITATION ON DELEGATION.—Notwithstanding any other provision of law, the authorities and duties established by this section may not be delegated.

SEC. 6. DISTRIBUTION OF FREQUENCIES BY THE COMMISSION.

Not later than 1 year after the President notifies the Commission pursuant to section 5(a)(5), the Commission shall prepare, in consultation with the Assistant Secretary of Commerce for Communications and Information when necessary, and submit to the President and the Congress, a plan for the distribution under the Act of the frequency bands reallocated pursuant to the requirements of this Act. Such plan shall—

(1) not propose the immediate distribution of all such frequencies, but, taking into account the timetable recommended by the Secretary pursuant to section 4(e), shall propose—

(A) gradually to distribute the frequencies remaining, after making the reservation required by subparagraph (B), over the course of a period of not less than 10 years beginning on the date of submission of such plan; and

(B) to reserve a significant portion of such frequencies for distribution beginning after the end of such 10-year period;

(2) contain appropriate provisions to ensure—

(A) the availability of frequencies for new technologies and services in accordance with the policies of section 7 of the Act (47 U.S.C. 157); and

(B) the availability of frequencies to stimulate the development of such technologies;

(3) address (A) the feasibility of reallocating spectrum from current commercial and other non-Federal uses to provide for more efficient use of the spectrum, and (B) innovation and marketplace developments that may affect the relative efficiencies of different spectrum allocations; and

(4) not prevent the Commission from allocating bands of frequencies for specific uses in future rulemaking proceedings.

SEC. 7. AUTHORITY TO RECOVER REASSIGNED FREQUENCIES.

(a) AUTHORITY OF PRESIDENT.—Subsequent to the withdrawal of assignment to Federal Government stations pursuant to section 5, the President may reclaim reassigned frequencies for reassignment to Federal Government stations in accordance with this section.

(b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

(1) UNALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have not been allocated or assigned by the Commission pursuant to the Act, the President shall follow the procedures for substitution of frequencies established by section 5(b) of this Act.

(2) ALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have been allocated or assigned by the Commission, the President shall follow the procedures for substitution of frequencies established by section 5(b) of this Act, except that the notification required by section 5(b)(1)(A) shall include—

(A) a timetable to accommodate an orderly transition for licensees to obtain new frequencies and equipment necessary for its utilization; and

(B) an estimate of the cost of displacing spectrum users licensed by the Commission.

(c) COSTS OF RECLAIMING FREQUENCIES; APPROPRIATIONS AUTHORIZED.—The Federal Government shall bear all costs of reclaiming frequencies pursuant to this section, including the cost of equipment which is rendered unusable, the cost of relocating operations to a different frequency band, and any other costs that are directly attributable to the reclaiming of the frequency pursuant to this section. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(d) EFFECTIVE DATE OF RECLAIMED FREQUENCIES.—The Commission shall not withdraw licenses for any reclaimed frequencies until the end of the fiscal year following the fiscal year in which the President's notification is received.

(e) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to limit or otherwise affect the authority of the President under sections 305 and 706 of the Act (47 U.S.C. 606).

SEC. 8. DEFINITIONS.

As used in this Act:

(1) The term "allocation" means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunication services.

(2) The term "assignment" means an authorization given to a station licensee to use specific frequencies or channels.

(3) The term "commercial carrier" means any entity that uses a facility licensed by the Federal Communications Commission pursuant to the Communications Act of 1934 for hire or for its own use, but does not include Federal Government stations licensed pursuant to section 305 of the Act (47 U.S.C. 305).

(4) The term "Commission" means the Federal Communications Commission.

(5) The term "Secretary" means the Secretary of Commerce.

(6) The term "the Act" means the Communications Act of 1934 (47 U.S.C. 151 et seq.).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 531, the Emerging Telecommunications Technologies Act of 1991 which would require the Secretary of Commerce to identify and transfer 200 MHz of radio frequency spectrum, currently assigned to the Federal Government users, for reallocation to our Nation's commercial sector. I want to commend Chairman DINGELL for his leadership and insight in shaping this critical piece of legislation—legislation that will serve as a cornerstone for future growth in the U.S. telecommunications industry and economy.

All across the country, telecommunications technologies are changing the face of the business landscape and are creating exciting new opportunities for the American consumer. The radio frequency spectrum or airwaves, constitutes the medium through which these new technologies carry information. Industries which rely on the spectrum—from television and radio broadcasting and cellular phones to satellite transmissions and garage door openers—together generate more than $100 billion in annual revenues.

As wireless technologies develop however, their commerical viability is increasingly threatened by the lack of available radio spectrum. This piece of legislation proposes a realistic and pragmatic means of effectively identifying spectrum presently underutilized by the Federal Government and transfering it to the FCC for reallocation to the private sector. This will then create much needed breathing room in which new technologies can make it to market and flourish.

One example of a technological innovation envisioned by the bill would enable people using laptop and note-book sized computers to communicate with each other, wherever they are located and to connect with files and databases anywhere in the world. While there are a number of proposals for expanded personal communications services [PCS], to date, policymakers have not yet made adequate provision for the coming revolution in personal productivity represented by the communicating PC's. Presently there are no adequate frequencies assigned in the United States for this sort of technology, and it will not exist but for a new allocation of spectrum. Apple Computer, IBM, NCR, Tandy, and Compaq among other companies, have supported a spectrum allocation for data-PC's technology.

The benefits of the increased productivity in U.S. education and industry that will result from this one new technology alone have inherent value; this allocation would create the environment for virtually unlimited access to the power of computing for students, business people, professionals, public servants, and consumers in every walk of life. The development of the new technology also will significantly affect U.S. competitiveness in the world economy. With adequate spectrum resources, U.S. computer and information industries are in a position to become the world leader in the development and use of wireless PC networks and, as a result, set the international standards for hardware, frequencies, and software protocols on a de facto basis.

The proposal for allocation of frequencies for data-PC's is thus an example of the type of spectrum use that scores high in the bill's criteria uniqueness, necessity, productivity, and competitiveness, and is indicative of the type of exciting technological development that this bill will foster.

As the Commission considers new technologies, such as personal communications services [PCS] which will become an element of our Nation's telecommunications infrastructure, we must adopt policies that promote competition among diverse providers while not excluding viable competitors.

It is vitally important that we adopt policies now to make this limited natural resource, the radio airwaves, more available. Our international competitors have already begun the process of reallocating radio frequencies and establishing spectrum reserves. As a nation, we simply cannot delay any longer if we hope to take advantage of the opportunities these new technologies offer.

H.R. 531 is a public policy blueprint that creates these exciting new opportunities. It enables technology to spur robust economic growth and to improve our way of life. This legislation requires the Federal Government to employ more efficient spectrum management techniques so that it can transfer some of its unused and underutilized spectrum for reassignment to emerging commercial technologies. H.R. 531 proposes a realistic and pragmatic means of effectively reallocating at least 200 megahertz of the radio frequency spectrum from the Federal Government to the private sector and the public safety community.

H.R. 531 is the foundation for our efforts to achieve this objective and help our Nation fulfill its technological and economic future. Without passage of H.R. 531 many of tomorrow's new technologies and services may forever remain a gleam in the eyes of their inventors and investors. The concepts embodied in this bill will truly lay the groundwork for new frontiers in telecommunications, perhaps bringing us to the day when Dick Tracy two-way video wristwatches become as common as congressional beepers around here. This legislation represents more than a shifting of frequencies from the present to the future however, it represents the replenishment of a vital resource, a renewing of our Nation's commitment to technological preeminence and the distinction of having the best telecommunications infrastructure in the world.

In the last session of Congress, this legislation was unanimously accepted by the committee and the full House. With the bill ready for passage on the floor of the U.S. Senate, it was held hostage to peripheral budgetary wrangling. This effectively prevented the Nation from moving forward, from taking the first step of identifying and transfering spectrum. This year again, efforts were made to delay passage of this bill until fiscal and assignment issues unrelated to this first step were resolved.

I agree with the administration and with Mr. RITTER and my other colleagues that reform of the assignment process is necessary and that our review should consider the administration's proposals to have a revenue-raising element in the spectrum assignment process. I am committed to working with my colleague from Pennsylvania and the administration to develop a consensus solution to these important assignment issues. As part of that effort, the subcommittee will hold a hearing in mid-September, where Secretary Mosbacher will have an opportunity to articulate the administration's policy. I look forward to working with Mr. RITTER and my other colleagues on their separate legislative proposal. Today's passage of H.R. 531 will in no way prejudice our deliberations on the much-needed legislative reform of the FCC's flawed assignment process.

I would again like to commend Chairman DINGELL and his excellent staff, David Leach and Jack Clough, for their leadership on this issue and thank Mr. LENT, Mr. RINALDO, as well as Mike Regan of the minority staff for their steadfast support and cooperation.

I urge my colleagues' support for this legislation.

□ 1230

Mr. Speaker, I would also like to thank on my staff for his work over the past year, John Kinney, who is leaving to start law school at De Paul University as a scholarship student in August. This will be his last piece of legislation on the floor. I would like to thank him for his effort, and would like to also thank the minority counsel as well.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the primary role of Congress in the communications field is to preserve and promote competition and innovation wherever possible. This is particularly important now in the emerging and fiercely competitive global telecommunications market.

To promote American competitiveness in the field of telecommunications, we must make our scarce radio spectrum resources available for as many different uses as possible and ensure that it is used efficiently.

Presently, the radio spectrum—the very lifeblood of the communications industry—is overcrowded. This not only stifles existing users of spectrum, but potential new users of that spectrum as well. These promising new users include high definition television [HDTV], digital audio broadcasting [DAB], and personal communications networks [PCN], the next generation of portable telephones. With the expected deployment of these systems in the near future, this Nation faces the threat of a spectrum crisis.

H.R. 531 takes a commonsense approach to addressing this crisis: It promotes efficient spectrum use, encourages greater Government coordination, and makes much needed spectrum available for commercial users. The legislation will also stimulate technological innovation within our domestic telecommunications industry.

For years, the Government has championed policies designed to promote efficient spectrum use. This bill requires the Government to practice what it preaches and turn over the

spectrum it doesn't need for private use wherever possible. No more, no less.

We recognize that the Government has a multitude of legitimate spectrum uses that we must continue to provide for, but, like all spectrum users, the Government should be required to justify spectrum needs.

H.R. 531 puts this process in motion by requiring the National Telecommunications and Information Administration [NTIA], the spectrum coordinator for the Government, to review current Government spectrum use and select, within 2 years, 200 megahertz for reallocation to commercial users. To meet our most pressing needs, the bill provides for the expedited identification and reallocation of 30 megahertz of spectrum.

The FCC would then take responsibility for determining how best to allocate the newly available spectrum to existing and new technologies. H.R. 531 mandates that the FCC carefully weigh the benefits and costs to the public of any proposed reallocation.

We all know that the commercial potential of new communications technologies will be essential to our economy as we move into the next century. Without new spectrum allocation and assignment policies like H.R. 531, our communications infrastructure will become even more congested and will be frozen into obsolete technologies.

Finally, I want to commend the chairman of the Energy and Commerce Committee, Mr. DINGELL, for his leadership on this important issue. Both he and the chairman of the Telecommunications Subcommittee, Mr. MARKEY, should be commended for the time and effort they have put into this issue, which is one of the most important long-range issues we face. I hope and believe that this bill will make a positive contribution to America's competitive position in the years to come.

I urge all Members of the House to support H.R. 531.

Mr. Speaker, I would be remiss if I did not commend the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], for his leadership on this important issue. Both the chairman and the distinguished chairman of the Subcommittee on Telecommunications and Finance, the gentleman from Massachusetts [Mr. MARKEY], should be commended for the time and effort they have put into this issue, which is one of the most important long-range issues we face. I think the proposal of the gentleman from Massachusetts [Mr. MARKEY], which was enunciated on the floor, for handling the other problems allocated with spectrum allocation, are very noteworthy and to the point. I hope and believe this bill will make a positive contribution to America's competitive position in the years to come.

Once again, I want to acknowledge the hard work of the subcommittee members, the subcommittee staff, the gentleman from Massachusetts [Mr. MARKEY], and on this side, in particular, the gentleman from Pennsylvania [Mr. RITTER] and the gentleman from Ohio [Mr. OXLEY], as well as on the other side, the gentleman from Louisiana. [Mr. TAUZIN].

Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I rise in support of H.R. 531, the Emerging Telecommunications Technologies Act of 1991.

I want to commend our colleague, the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY] for his leadership in this area, as well as the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], and the subcommittee for staying on top of these opportunities which present itself, so that America can fulfill the potential in this burgeoning area of telecommunications.

This bill gives the way, as we have heard, for 200 megahertz of spectrum to be reallocated from Government use to private use.

As we have heard, as well, there is no doubt we are running out of room in the usable radio spectrum, and there is tremendous opportunity out there in the private sector to take advantage of spectrum. Private industry is doing its best to implement spectrum management techniques. However, Government users have not been forced to use the spectrum as efficiently as they should. By moving 200 megahertz of spectrum from the Government to the private sector, I think we will begin to force the Government to be as efficient as the private industry counterparts.

However, I do feel we are missing a great opportunity here. With this particular bill, the spectrum we made available will be handed out free of charge.

In the past, this had meant that speculators, with no particular communications skill or knowledge, but with enough luck to hold the "winning" number in a Federal Communications Commission lottery, these speculators receive the license. Now, the recent cellular license winner in Cape Cod is a good example.

□ 1240

The applicant's goal is often just to turn around and sell the license for a huge windfall profit. That is what happened here, not to construct the communications system for which the license has been awarded. In such diverse publications as the Washington Post, the New York Times and The Economist, articles and editorials have appeared questioning why the Government gives away these valuable licenses of a public good radio spectrum for free. Is it not about time we ought to put an end to the process?

I have authored H.R. 1407, along with my colleague, the gentleman from Ohio [Mr. OXLEY] and my colleague, the gentleman from Louisiana [Mr. TAUZIN]. This is a bill to mandate that spectrum be reallocated on a competitive bidding basis, where the public is the recipient of the bid. Competitive bidding for spectrum makes sense. The Government uses competitive bidding for oil and natural gas leases. Why not somewhat similar systems for spectrum licenses?

Some people argue that only the deep pockets will be able to play the bidding game. Well, the news is that only the deep pockets can play the game today.

Today there is no requirement that the lottery winner take into account such principles as minority ownership, diversity, or the needs of innovative small business; but if the FCC manages the bidding process, the Government can make sure that all these principles are taken into account.

Spectrum bidding is a taxpayer relief concept. That is why the National Taxpayers Union supports competitive bidding. I am also confident that a competitive bidding mechanism can be developed that insures that those with legitimate spectrum needs can be accommodated in the years to come. Again, the FCC manages it. It is not straight flat out bidding exposure to the highest bidder.

Furthermore, we could target at least some or all of that revenue perhaps for telecommunications infrastructure improvement. The gentleman from Massachusetts [Mr. MARKEY] just spoke eloquently on the need to provide the basis for telecommunications improvements over the years. Infrastructure is important. Perhaps this could serve as an important source of revenue for enhancing telecommunications infrastructure.

The SPEAKER pro tempore (Mr. MAZZOLI). The time of the gentleman from Pennsylvania has expired.

Mr. RINALDO. Mr. Speaker, I yield 1 additional minute to the gentleman.

Mr. RITTER. America's economic competitiveness depends on an advanced telecommunications and information network. Fiber optics is one particular example. Perhaps this money from spectrum bidding could be used to further America's investment in fiber optic networks. It is really imperative that Congress promote policies for telecommunications infrastructure development; otherwise we risk allowing others to surpass us in an information economy based on global telecommunications now into the next century.

Getting back to the bill before us, I support H.R. 531. It is a good first step. It has the potential of opening up additional spectrum for telecommunications technologies.

The gentleman from Massachusetts [Mr. MARKEY] and I have discussed the issue of competitive bidding and he has acceded to holding a hearing in September. I look forward to that hearing. I appreciate the chairman's willingness to work with me on this extremely important issue.

Mr. RINALDO. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I would like to commend my colleague, Chairman DINGELL, for his continued efforts to establish a broad framework for promoting the efficient use of the radio spectrum.

H.R. 531 introduces 200 megahertz of new spectrum to the marketplace, the purpose of which is to promote the growth of our telecommunications industry. As we approach the dawn of a new century, advances in telecommunications technologies are spurring economic growth and enhancing our quality of life. Many of these advances depend on the use of the radio spectrum, and passage of H.R. 531 represents a step toward ensuring that the spectrum needs of these emerging telecommunications technologies can be met.

While H.R. 531 represents a significant step in the right direction, I believe that we have an opportunity to realize even greater gains. My colleague from Pennsylvania, Mr. RITTER, and I have introduced a bill, H.R. 1407, which would distribute new spectrum by competitive bidding. The spectrum is a valuable public resource, and the American public should realize the financial, as well as the technological, benefits generated by this resource.

Hearings on H.R. 1407 will commence in September with testimony from Secretary of Commerce Robert Mosbacher. I am hopeful that the many benefits of this legislation will become apparent, as I believe it is good public policy.

Auctioning spectrum space makes sense, and there are four reasons why H.R. 1407 is good public policy. Auctions would produce more innovative uses of spectrum space. Auctions would lead to more efficient allocation of a limited amount of spectrum space. Auctions would produce revenues which could be used to reduce the Federal budget deficit. And finally, auctions would bring spectrum allocation in line with other fee-for-use programs.

By supporting H.R. 1407, we have an opportunity to truly give the public its money's worth, and that's good public policy.

Mr. MARKEY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I have no other Members who are seeking recognition, but I would like to say this to the gentleman from Ohio [Mr. OXLEY] and to the gentleman from Pennsylvania [Mr. RITTER] that I am going to work with them through the gentleman from New Jersey [Mr. RINALDO] to fashion legislation. We will begin with the hearing with Mr. Mosbacher testifying.

Step one then will be the passage of this legislation which will begin the process of identifying and recapturing 200 megahertz spectrum, and then a reform process put on the books for its dissemination back out into the commercial marketplace, with some set asides for the public service, for public safety and other areas that we will have to deal with in a subsequent piece of legislation; so we will work with the gentleman. This is our foundation and we will move forward, and I thank the gentleman for his cooperation.

Again in conclusion, I would like to thank the ranking minority member of the full committee, the gentleman from New York [Mr. LENT].

I would like to thank Gerry Salemme of the staff, and I would like to thank Colin Crowell of my staff and again my good friend, the gentleman from New Jersey [Mr. RINALDO].

Mr. Speaker, I urge full support of the House for this legislation. It is a critically important piece of long-term competitiveness for our country.

Let me once again restate that the Japanese are targeting 20 to 22 percent of their Gross National Product that will be telecommunications hardware or software by the year 2000. Our country has to have a plan, we have to have a strategy and this piece of legislation is a critical part of that strategy.

Mr. LENT. Mr. Speaker, during the last decade, we have seen a profound and beneficial change in our daily lives. The telecommunications technologies that have emerged in that time—fax machines, cellular phones, and even the pagers that Members of Congress use—all are now so common that we take them for granted.

The benefits of these then-new technologies came about in part because we gave them room to grow. The FCC allocated part of the radio frequency spectrum to the pagers and the cellular phones. We invested that scarce resource in the private sector and have since reaped a large reward.

Unfortunately, this decade may not repeat the success of the last. The reason? The spectrum is jammed; most of the space is taken. Promising new technologies, such as high definition television [HDTV], may suffocate if we do not make more spectrum available.

H.R. 531 does just that. This bill takes government frequencies that might be put to a better use and turns them over to the private sector. Under H.R. 531, the Commerce Department would coordinate and consolidate government spectrum usage in an effort to make it more efficient.

This process should free up approximately 200 megahertz of spectrum, or the equivalent of 33 TV channels, for private use. This investment will have a handsome payoff in the next 10 years as existing and future technologies, such as personal communications networks [PCN] and HDTV, use the frequencies that H.R. 531 makes available.

I want to commend the full committee chairman, Mr. DINGELL, for his leadership on this important issue. I also want to commend the subcommittee chairman, Mr. MARKEY, and the ranking Republican member, Mr. RINALDO, for the considerable effort that they have devoted to this issue in the subcommittee. Together they have forged a bill that promises an enormous return on the small investment it makes.

I urge all the Members of the House to support H.R. 531, the emerging Telecommunications Technologies Act of 1991.

Mr. DINGELL. Mr. Speaker, I rise in support of H.R. 531, the Emerging Telecommunications Technologies Act. I would like to commend Mr. MARKEY, the chairman of the Subcommittee of Telecommunications and Finance, for bringing this bill before the House so expeditiously. I would also like to commend him for compiling a hearing record in support of this legislation that will serve as a resource for years to come.

In many ways, H.R. 531 is an obscure piece of legislation. Congress seldom legislates on spectrum issues. Indeed, prior to the hearings held by our Subcommittee on Telecommunications and Finance, the last comprehensive set of hearings that were held on the Government's procedures for making decisions on its own spectrum use took place in 1959. However, H.R. 531 has generated considerable attention, and spectrum management issues have become a much higher priority for the telecommunications industries and those in Government who oversee them.

Although they may be obscure, spectrum management decisions made in the next few years will have a profound effect on the way Americans work, relax, and live their daily lives well into the next century. A wide variety of new technologies can bring innovative services to the market—but only if the necessary spectrum is made available.

Therein lies the problem. The Federal Communications Commission has no vacant frequencies available to license for new technologies or services, no matter how desirable they may be. Under the most optimistic scenario, the introduction of new technologies will be delayed for a considerable period of time while the Commission attempts to take frequencies away from an existing user. More than likely, however, is that a great many technologies will never be introduced at all, due to the lack of available spectrum. Neither is an acceptable alternative as we enter the 21st century.

The adverse effect of the spectrum shortage is not limited to the introduction of new technologies. When corporate decisionmakers are deciding to allocate their research dollars, it is unlikely that they will invest in research and development of spectrum-dependent technologies, knowing that there are no available frequencies. The likelihood of ever recovering those investments is slight. And, if a lengthy regulatory fight at the FCC is a precondition of obtaining an allocation, the combination of uncertainty, cost, and risk will have the effect of steering research funds into other areas where a payoff is more likely.

Our Asian and European competitors are not so constrained. Americans use more spectrum than any other nation, and thus our spectrum shortage is far more acute and poses

problems that are unique to the United States. This is not an indictment—the American people have access to more radio and television signals, and more mobile radio technologies, than the citizens of any other nation. But the effect of our unique problems will be to see leadership in wireless technologies migrate to Japan, Europe, and other countries.

H.R. 531 was drafted so that we might avoid losing our lead in wireless technologies, and help assure that the benefits of the technological revolution are not lost to the American people. While there are a variety of problems that are unaddressed by the legislation, it will go a long way toward assuring that the FCC will be able to provide for our future spectrum needs.

In my view, the spectrum shortage we currently face is, in large part, the result of decisions made in the early part of the 20th Century. At that time, radio was in its infancy. The driving force that brought the Federal Government into the act was the need to prevent interference, as unlicensed and unregulated operators used the airwaves without restraint.

Authority to regulate spectrum use—by Government and non-Government users—was vested in the Commerce Department, under then-Secretary Herbert Hoover. In 1922, Secretary Hoover created the Interagency Radio Advisory Committee, to provide him with advice on the spectrum needs of the Federal Government. This unified control over all spectrum use enabled him to make informed decisions that would prevent interference between commercial and Government users.

For the next 5 years, this structure made sense. But in 1927, Congress created the Federal Radio Commission, and relieved the Secretary of Commerce of his responsibility to regulate the use of the spectrum by non-Government users. In 1934, the authorities vested in the FRC were transferred to the newly formed FCC, which has had the responsibility ever since.

Although both the regulatory structure and the amount of use of the spectrum have changed since 1922, the IRAC lives on. It continues to advise the Secretary of the Government's spectrum needs, and does an admirable job. But the tasks facing spectrum managers have grown considerably more complex since 1922.

Instead of merely regulating spectrum use to prevent interference, today's spectrum managers must weigh a host of competing demands. Today, their task is dominated by the need to apportion a scarce resource among competing—and in most cases, deserving—claimants.

But the regulatory structure established in 1922, and modified in 1927 and 1934, does not lend itself to the efficient management of a scarce resource. It is as if we had two landlords, operating independently, renting space in the same building.

Moreover, the internal procedures utilized by the IRAC do not lend themselves to the efficient management of the Government's portion of the spectrum. Meetings are held behind closed doors. No public input is sought. Decisions are seldom announced to the public, even after repeated inquiries are made. While the current Administrator of the National Telecommunications and Information Administration has set in motion a series of reforms designed to open the process to public scrutiny, which are commendable, we are still left with the legacy of nearly 70 years of closed-door decision-making.

The hearing record compiled by the Telecommunications Subcommittee leaves no doubt that these inefficient procedures have resulted in inefficient use of this scarce resource. Technologies such as trunking—long utilized by commercial operators—are still in the experimental phase for Government users. It is clear that the rigors of the FCC's procedures have resulted in more efficient spectrum use by non-Government users than by the Government.

H.R. 531 is designed to remedy this problem. It will require that the Commerce Department and the FCC conduct joint planning activities, so as to ensure greater levels of coordination and cooperation. Specifically, the legislation requires that these activities address: the future spectrum requirements for public and private uses, the allocation actions necessary to accommodate those uses, and actions necessary to promote the efficient use of the spectrum, including spectrum management techniques to promote increased shared use of the spectrum that does not cause harmful interference as a means of increasing commercial access.

This last point is extremely important. The Government currently has exclusive access to frequencies that are utilized in rural areas. Some of these uses are classified, and concern Defense Department programs for weapons testing—which is, as a general practice, conducted in remote areas. Other applications involve remote sensing to warn of rising water in rivers and reservoirs, which could result in flooding. I have no quarrel with these uses. But I see no reason why a prudent sharing arrangement cannot be worked out, whereby these same frequencies can be reused in urban areas, and help relieve congestion.

In addition to addressing the problems caused by 70 years of bifurcated management, the legislation contains other provisions as well. It requires that the Commerce Department identify 200 mHz of spectrum used or allocated to Government users that, over time, will be transferred to the FCC for licensing to non-Government users. It will increase reliance on services provided by private sector vendors, such as system operators or common carriers, for the provision of services the Government currently provides for itself. In short, H.R. 531 will have a substantial effect on the efficiency of Government spectrum use, now and in the future.

By requiring that 200 mHz of spectrum be freed up for non-Government uses, the legislation will also result in the availability of blocks of frequencies that the FCC will be able to allocate for new technologies. Innovators and entrepreneurs will be able to conduct research with the knowledge that they at least have a fighting chance to obtain an allocation of spectrum. American companies can make investment decisions to engage in research and development of spectrum-dependent technologies in the United States, and not migrate off shore. American users will continue to have access to cutting edge technologies that will help us to compete internationally.

H.R. 531 is not a panacea for all that ails us. But its beneficial effects will be virtually immediate and long lasting. Its passage by Congress should not be held hostage to theories about spectrum auctions or other problems that involve the Commission's licensing practices. Those problems need to be addressed—but first we must make sure that the Commission has something to license.

It is my hope that the passage of H.R. 531, and its implementation by the executive branch, will create a new environment for spectrum managers. The current ad hoc approach to allocation decisions can be replaced with a more rational approach. For example, local public safety agencies utilize frequencies at 200, 400 and 800 mHz. That means that each police cruiser needs to have three radios in its trunk—an expensive proposition for local taxpayers. Not only is this an inefficient use of taxpayer dollars, it is an inefficient use of spectrum as well. Over time, the freedom that H.R. 531 gives to spectrum managers will enable them to create common blocks of frequencies for public safety and other users, reducing their costs and increasing spectrum efficiency simultaneously.

The Emerging Telecommunications Technologies Act is a bill whose time has come. Unless this landmark legislation is passed and signed into law, American manufacturing companies will lose their lead in bringing new wireless technologies to U.S. users. Americans have developed an appreciation for the benefits that spectrum-dependent technologies can bring. They deserve to benefit from new radio technologies well into the next century.

Mr. Speaker, I urge my colleagues to support this important legislation. It has been endorsed by a wide variety of spectrum users—in fact, I am not aware of a single organization that opposes H.R. 531. Among those supporting the bill is a group known as APCO [the Association of Public Safety Communications Officers]. APCO's support is due to the need for additional frequencies for public safety use, by local police and fire departments. Unless H.R. 531 is passed, local public safety officers will not have access to the spectrum they need and deserve, and will continue to encounter delays that are simply intolerable.

Mr. Speaker, H.R. 531 was reported by unanimous voice vote by the Subcommittee on Telecommunications and Finance, and by the Committee on Energy and Commerce. It is substantially similar to H.R. 2965, which passed the House a year ago by unanimous voice vote. I urge my colleagues to support this important legislative initiative, which I regard as one of the most important to come before this House this year.

Mr. RINALDO. Mr. Speaker, I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 531, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 531, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

STRIPED BASS ACT OF 1991

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2387) to authorize appropriations for certain programs for the conservation of striped bass, and for other purposes as amended.

The Clerk read as follows:

H.R. 2387

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Striped Bass Act of 1991".

SEC. 2. ATLANTIC STRIPED BASS CONSERVATION ACT ENFORCEMENT, REAUTHORIZATION, AND EXTENSION.

(a) ENFORCEMENT OF MORATORIUM ON ATLANTIC STRIPED BASS FISHING.—Section 5(e) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended—

(1) in the first sentence by inserting "(1)" before "The Secretaries"; and

(2) by adding at the end the following new paragraphs:

"(2) ENFORCEMENT AUTHORITY.—A person authorized by the Secretaries may take any action to enforce a moratorium declared under section 4(b) that an officer authorized by the Secretary under section 311(b) of the Magnuson Fishery Conservation and Management Act may take to enforce that Act.

"(3) REGULATIONS.—The Secretaries may issue regulations to implement this subsection.".

(b) AUTHORIZATION OF APPROPRIATIONS; COOPERATIVE AGREEMENTS.—Section 7 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended—

(1) by inserting before "For each" the following: "(a) AUTHORIZATION.—";

(2) by striking "and 1991," and inserting "1991, 1992, 1993, and 1994,";

(3) by adding at the end the following new subsection:

"(b) COOPERATIVE AGREEMENTS.—The Secretaries may enter into cooperative agreements with the Atlantic States Marine Fisheries Commission for the purpose of using amounts appropriated pursuant to this section to provide financial assistance to the Commission for carrying out its functions under this Act."; and

(4) in the heading for the section by inserting before the period at the end the following: "; COOPERATIVE AGREEMENTS".

(c) EXTENSION OF EFFECTIVE PERIOD.—Section 9 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by striking "1991." and inserting "1994.".

SEC. 3. REAUTHORIZATION OF STRIPED BASS STUDIES UNDER ANADROMOUS FISH CONSERVATION ACT.

(a) CONDUCT AND SCOPE OF STUDIES.—Section 7(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(a)) is amended to read as follows:

"(a) CONDUCT AND SCOPE OF STUDIES.—The Secretary shall cooperate with States and other non-Federal interests in conducting scientific studies of the anadromous stocks of Atlantic striped bass. These studies shall include, but not be limited to—

"(1) estimates of recruitment, spawning potential, mortality rates, stock composition of coastal fisheries, and other population parameters;

"(2) investigations of factors affecting abundance of striped bass, including analyses of the extent and causes of mortality at successive life stages; and

"(3) monitoring population abundance and age and sex composition of striped bass stocks on fishery-dependent and fishery-independent data.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(d)) is amended—

(1) by striking "1988, 1989, 1990, and 1991." and inserting "1991, 1992, 1993, and 1994."; and

(2) by striking the third sentence.

SEC. 4. FISHERY MANAGEMENT PLAN ON STRIPED BASS.

Section 6 of the Act entitled "An Act to authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes", approved November 3, 1988 (Public Law 100-589), is amended—

(1) by striking subsection (c);

(2) in subsection (d) by striking "or (c)"; and

(3) by striking subsection (f).

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2387, the Striped Bass Act of 1991 modifies and extends the Striped Bass Conservation Act of 1984 and the Federal Striped Bass Study for an additional 3 years.

On May 30, the Subcommittee on Fisheries and Wildlife Conservation and the Environment held a hearing on the bill, and every witness, including the administration, testified in support of the legislation. At our subcommittee markup on June 20, we added three minor amendments that reflected suggestions we received at our hearing. The following week, the bill was unanimously approved by the full Committee on Merchant Marine and Fisheries.

Mr. Speaker, the Striped Bass Act of 1984 was passed in response to a dramatic decline in the striped bass populations along the east coast in the 1970's and early 1980's. The act, along with sound management, State and regional cooperation, and strong support from the commercial and sports fishermen, have all contributed to the recovery of the striper.

The stripers' comeback, Mr. Speaker, is no less miraculous than the efforts of Jim Palmer and Jimmy Connors. But in order to avoid the same outcome as the efforts of those two great athletes, we need to maintain sound conservation practices for the striped bass. H.R. 2387 will ensure the full recovery of the striper, and I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2387, the Striped Bass Act of 1991, and I encourage my colleagues to do the same.

Even though the migratory range of the Atlantic striped bass does not extend to the coast of Alaska, I fully support the reauthorization efforts of the committee. I am pleased to hear that the numbers of the stripers are apparently getting stronger, and the management plan in contributing to the full restoration of the species.

However, I would like to state that I am extremely hesitant to interfere further with State management programs, even if the range of the stock extends beyond a single State's waters. States should be encouraged to work together for joint management of fish stocks.

H.R. 2387 is simply a reauthorization, with a few minor adjustments, mainly for clarification purposes. Again, I encourage my colleagues to support this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, let me first congratulate the gentleman from Massachusetts [Mr. STUDDS] and the gentleman from Alaska [Mr. YOUNG] for bringing this bill forward.

Mr. Speaker, I would like to take a moment to speak on behalf of the striped bass.

As a fisherman I recognize the value of our domestic fish population for the recreational pleasure of the American public.

I do not think we have an opportunity often to speak up on behalf of the bass population of this Nation.

Now, it is true that Bill Westmoreland loves small-mouthed bass and there is no doubt that Bill Dance loves large-mouthed bass most of all. But my heart goes out for the striped bass.

This is an enormous, wonderful recreational fish; a good fighter and a good contestant at any time that you manage to snag one.

Not only should we enjoy the striped bass, but we should recognize that he does on our behalf a wonderful gesture when he takes our bait; and we should play with him, we should enjoy the contest, and we should then do the fair thing, put him back in his home to provide recreation for yet another dedicated angler.

We should introduce our children to the striped bass and to others of the species.

Mr. Speaker, I live with an abiding faith that a youngster who spends his idle time plotting and scheming for that time in which he is going to catch the biggest bass in the lake is a youngster who will not go astray.

Now, a parent, a mother or a father who spends their time on the lake or on the shore with the youngster helping that youngster to develop these skills, this sense of sportsmanship, this sense of fair play to catch the wonderful striped bass, and then release him home for others to enjoy is a youngster who will be taught by that parent all the best merits of sportsmanship, good conduct, and good manners and a youngster that is not likely to go astray.

So I applaud the gentleman for bringing this legislation forward, and I applaud the Congress for what I am sure will be their unqualified support on behalf of the bass that will provide for our children an inspiration for greater, more responsible citizenship in the future.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have to confess I was unprepared for this outburst of enthusiasm and perspective and humanity and just general understanding of life from Texas. I am deeply appreciative, as I know the striper is remarkable. I want to commend—we have to commend one another, as you know, here and apparently it is part of the rules.

The preceding bill, I think, broke some record with respect to Members commending one another any number of times. But the gentleman from Alaska, notwithstanding the fact that he slipped for a moment and referred to this as a rockfish, we appreciate the understanding of the gentleman from Texas, almost as far distant, that its real name is striper.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume, just to compliment the gentleman from Massachusetts [Mr. STUDDS].

It is a striped bass in Massachusetts and in the Chesapeake Bay and in California, but as I mentioned before, it does not come to Alaska. We can only say "salmon," and we will address that issue in the next bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2387, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ENCOURAGING THE EUROPEAN COMMISSION TO BAN LARGE-SCALE DRIFT-NET FISHING

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 182) to express the sense of the House of Representatives that the Secretary of State should encourage the European Commission to vote to ban all large-scale drift-net fishing by all European Community fishing fleets, as amended.

The Clerk read as follows:

H. RES. 182

"Whereas United Nations Resolution 44/225 specifically calls for the immediate cessation of expansion of large-scale driftnet fishing on the high seas;

"Whereas the European Community cosponsored United Nations Resolution 45/197, which reaffirms United Nations Resolution 44/225;

"Whereas the damage caused by the use of large-scale driftnets on the high seas can be crippling to efforts to conserve fisheries within the exclusive economic zones of coastal States;

"Whereas there are currently no effective conservation and management measures that will make large-scale driftnet fishing an acceptable fishing technology;

"Whereas votes in the European Community and other regional fora to ban large-scale driftnet fishing are critical to the global effort to accomplish that goal;

"Whereas the expansion of large-scale driftnet fishing on the high seas by certain European Community fishing fleets is in contravention of United Nations Resolutions 44/225 and 45/197; and

"Whereas approval by the Fishery Council of the European Community of a proposal to ban large-scale driftnet fishing, which is scheduled to be voted on by the European Commission in the near future, is critical to the success of the global fight to ban large-scale driftnet fishing, and is therefore of extreme importance to the United States Government: Now, therefore, be it

"*Resolved*, That it is the sense of the House of Representatives that the Secretary of State, in consultation with the Congress and other Federal agencies with competence regarding large-scale driftnet fishing, should communicate to members of the European Community the support of the United States to obtain an immediate ban on all large-scale driftnet fishing by European Community fishing fleets, including all fishing using one driftnet, or a combination of driftnets, having a total length greater than 2.5 kilometers."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 182 is a simple resolution with a powerful message to the European Community to act now to ban large-scale drift net fishing by its member fleets.

The Merchant Marine and Fisheries Committee recently learned that the European Community is about to consider the issue of large-scale driftnet fishing. The Fishery Council of the Community is expected to vote in the very near future on whether to ban the use of large-scale drift nets. House Resolution 182 is intended to put the House of Representatives on record as favoring such a ban.

Most Members are probably aware of the destructive large-scale drift net fishing that occurs in the Pacific Ocean by fishermen from Japan, Taiwan, and Korea. Driftnets up to 40 miles long are used to catch salmon, squid, and tuna, but in the process also slaughter thousands of seabirds, whales, dolphins, and sea turtles. In response to this tragic situation the United Nations has passed resolutions prohibiting any further expansion of large-scale drift net fishing and calling for a complete moratorium on the use of these killer nets on the high seas by June 30, 1992.

Last year this Congress prohibited U.S. fishermen from using large-scale drift nets—nets over one and one-half miles long. This resolution encourages the European Community to do the same and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of both drift net resolutions that the House will be considering today, and I urge each of my colleagues to do the same.

The large-scale drift net issue is of particular concern to me. This gear type has stripped the ocean of numerous target and nontarget marine resources, including those which support Alaskan fisheries.

Taiwaneses, Korean, and Japanese fishing fleets set thousands of miles of this monofilament net each day. Each net can be as long as 60 kilometers. These nets drift with the tide entangling anything on the surface or in the water. Victims of this gear include whales, dolphins, turtles, sea birds, and salmon, just to name a few. Perhaps some of my colleagues are not aware but many of these same critters are protected, and the directed or incidental killing of some species is in violation of marine mammal protection laws.

The impacts to the fishing industry in Alaska from the incidental catch and directed taking of salmon on the high seas is unacceptable. The Japanese fisheries in the North Pacific are notorious for a high salmon by-catch, and many believe the illegal directed taking of salmon on the high seas.

I have just returned from Alaska, where just last week the fishermen

were protesting. The contentious issue was the price they were being offered by processing plants, which are mainly Japanese owned. The price was more than 50 percent below that of 1 year ago. The reasons given were that there was so much salmon on the market. Why? Well, that is what everyone is asking. Clearly, there has been an increase in the legitimate supplies of salmon on the world market. But what portion of the salmon glut is due to the illegal high seas fishing. What kind of gear are they using? Large-scale drift nets. One way to combat this particular source of salmon to the benefit of the Alaskan fishermen is to stand behind the ban on the use of large-scale driftnets. This is just one more reason for my support of this measure.

However, the jury is still out on whether or not there really is a glut of salmon on the market, of if the Japanese-owned processing plants were simply getting together and offering one, very low price. Regardless of the market price for salmon, the processors would have taken a large chunk of profit, by offering such a low price. I am concerned for the Alaskan fishermen and have taken steps to see that they are not taken advantage of. I have asked the General Accounting Office to look into the possibility that the processors have engaged in price fixing to the detriment of the fishermen. I sincerely hope that no such price fixing has occured, but regardless of the findings we are doing something positive today, by taking steps to eliminate an illegal and harmful supply of salmon.

The 1990 statistics from observer data on the directed taking and by-catch using large-scale drift nets show extraordinary numbers. These statistics reinforce my opinion that the losses due to this gear type are extensive and unacceptable. To make matters worse, these data are from only 10 percent of the Japanese fleet. The numbers do not include the other 90 percent or any of the other foreign fishing fleets.

Up until recently, the Pacific Ocean was the center of United States concern of drift net activities. More than 800 driftnet vessels from Japan, Taiwan, and Korea fish in the Pacific, mainly for squid, tuna, and billfish. However, it has been reportedly that vessels carry this gear type have been recently spotted in the Caribbean. We are concerned that the use of this gear may continue to spread.

The United Nations has attempted to take a firm stand on the issue of large-scale drift nets by calling for a moratorium on the use of this gear by the end of June 1992, unless scientific evidence indicates that the negative impacts from using this gear is insignificant.

The first of the two drift net resolutions encourages the European Commission to vote to ban the use of large-scale driftnets by all European Community fishing fleets. House Resolution 182 resolves that the U.S. Department of State, in consultation with the Congress and other Federal agencies, should communicate to members of the European Commission that the United States supports an immediate ban on the use of this gear type by all European Community fishing craft.

The scientists do not yet know the impacts on fish populations from stripping the oceans. There is a great deal of speculation on the impacts of marine mammal populations, and the health of the entire marine ecosystem.

Let me make another stand behind the ban on the use of large-scale driftnets before we no longer need expert scientists to tell us how badly damaged the oceans are. I once again encourage my colleagues to support both resolutions banning the use of this gear.

□ 1300

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, it does not take a Jacques Cousteau to understand the devastating impact the use of large-scale drift nets has on the marine environment. It is rather elementary—toss a few miles of invisible monofilament netting into the sea in hopes of targeting 1 or 2 fisheries, perhaps tuna or squid, and you are bound to entangle at least 50 other marine species that happen to be in the wrong place at the wrong time. I cannot think of a quicker and more efficient way to depopulate the sea.

I would not go so far as to say the United States has a perfect record in this area, but we can take credit for recognizing the problem and trying to do something about it. We took the first step toward reducing the mortality rates of dolphins, turtles, sea birds, and other marine creatures last year when we passed the Dolphin Protection Consumer Information Act. Today we will advance one step farther in our quest to protect the bountiful sea by passing House Concurrent Resolution 113 and House Resolution 182.

Recently my office received a report of the observations of the Japanese high seas squid drift net fishery in the North Pacific Ocean. I was angered by the findings, but I have to say that I was not surprised. Images of dolphins, loggerheads, rays, sailfish, puffins, and fur seals being trapped, drowned, and crushed for no good reason were haunting.

The United States is not the only nation aware of the devastating toll this method of fishing has taken on the sea. No nation can plead ignorance. That is why I find it unconscinable that any nation would allow its fishing industry to continue such practices. The time has come to make large-scale drift-net fishing a method of the past.

You might say I am particularly sensitive to this issue because I am particularly sensitive to the plight of the dolphin. At my home in Florida, it is not uncommon to look out my window and see dolphins frolicking. Unfortunately we have lost a large number of the dolphin population in the Gulf of Mexico over the past few years due to a number of events. To the average Floridan, dolphins are one of the most cherished natural resources; one dead dolphin is one too many.

Sometimes it seems the rest of the world does not feel the same way about dolphins, or for that matter, for any of the other wonderful marine creatures God has placed on this Earth. The world is a little careless, it seems.

T.S. Eliot once said, "The Seas has many voices." I am afraid that is something is not done soon to stop this method of fishing—a method that is virtually the equivalent of strip-mining the ocean—those voices may be lost forever.

We are not suggesting that commercial fishing is out of bounds. We are rather advocating wise use of our natural resources, so we will continue to have natural resources to use in the future.

Mr. STUDDS. Mr. Speaker, I want to commend the gentleman from Florida [Mr. GOSS] and wish him well in his effort to introduce poetry to the floor of the House. It is a challenge.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I wish to rise and associate myself with the remarks of the previous speaker, the gentleman from Florida [Mr. GOSS], and commend our chairman, the gentleman from Massachusetts [Mr. STUDDS], for his foresight in bringing this resolution before this body.

Mr. Speaker, last week I had the opportunity to participate in a gathering of Members of the Parliament or Congress from Japan, from the European Community, from the United States and from the Soviet Union. Unanimously they support the concept that the drift nets are a menace to any environmentally sustainable use of our natural resources from the oceans and that we should do all we can to ban their use.

I urge this body and the European Community to take these steps now.

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I speak in support of the immediate ban on the use of large-scale drift nets by international fishing fleets, House Concurrent Resolution 113. Drift-net fishing anywhere in the world can threaten the viability of marine species and ecosystems for entire regions.

I also support H.R. 182 which calls for an immediate ban on the use of large-scale drift nets by European community fishing fleets.

This resolution defines large-scale drift nets as one or a combination of nets that are more than 1.5 miles long. These plastic nets, which stretch for miles to catch fish below the ocean's surface, indiscriminately kill hundreds of thousands of marine mammals, endangered sea turtles, seabirds and millions of nontarget fish.

□ 1310

Numerous organizations have worked to prevent the widespread damage that large-scale drift nets inflict upon mammals and nontarget species of fish. U.N. General Assembly Resolution 44-225, which was unanimously approved, calls for a moratorium on this practice by June 30, 1992. The Magnuson fishery conservation reauthorization—Public Law 101-627—prohibited the use of large-scale drift nets in U.S. waters, banned their use by U.S. fishing fleets anywhere in the world and urged the administration to negotiate a worldwide ban of these drift nets. As the gentlewoman from Washington [Mrs. UNSOELD] stated earlier. The Global Legislators Organization for a Balanced Environment [GLOBE], an organization of 59 parliamentarians from the European Parliament, the United States Congress and the Diet of Japan supports all initiatives prohibiting the use of large-scale drift nets. I am a member of a GLOBE U.S.A., as is the gentlewoman from Washington [Mrs. UNSOELD], which met just last week in Tokyo with GLOBE International—GLOBE EC, GLOBE U.S.A., GLOBE Japan, and GLOBE U.S.S.R.—strongly supported implementation of U.N. Resolution 44/225. Mrs. UNSOELD was instrumental in working out compromises with the Japanese Diet, and I commend her for that.

I urge my colleagues to support this resolution to communicate to the State and Commerce Departments to submit to Congress recommendations of actions, including sanctions, for the United States to implement the international moratorium and the United States ban of large-scale drift nets. It will emphasize to the international community the U.S. support for a moratorium on large-scale drift nets and end the unintended damage to our precious environment.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the gentleman from Alaska, the gentlewoman from Washington, the gentleman from Oregon, the gentleman from Florida, and the gentlewoman from Maryland, as well as any other Member even remotely associated with this issue, in the strongest possible terms.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to remind Members that this issue has been before Congress before. We voted, along with the gentleman from Massachusetts [Mr. STUDDS], and in fact passed a more restrictive piece of legislation over to the Senate, which would have given the President the ability to impose sanctions on countries. That was rejected by another committee in this House and was stripped from the Senate bill, and that is actually an amendment to the Pell amendment, which I have offered, and has been introduced this year also. Hopefully the committee, and the gentleman from Florida [Mr. GIBBONS], will see the wisdom to pass that piece of legislation. Because with all the rhetoric one hears today, and I compliment everyone for this effort, it still is not going to be enough, until those countries that we have no treaty with, have no observers on their vessels, primarily Taiwan, are going to continue to use these nets.

Mr. Speaker, we have identified Japan in this resolution, and we have identified some other countries, but the real problem is Taiwan. Until we can address that issue, we are not going to accomplish our goal.

As many previous Members mentioned, how any country can condone this activity, I cannot understand. But we are also one of the largest importers of their products. Taiwan hats, Taiwan fireworks, Taiwan this, Taiwan that. Check your shelves as you go into your home, Mr. Speaker, and you will find out we are the biggest importer from Taiwan.

Mr. Speaker, we ought to be able to leverage that buying of their products into having them stop this terrible crime they are committing at sea. That is the important factor here.

Mr. Speaker, these are two positive steps, but they are not strong enough yet. We have to make sure that if we do not see immediate action, if there is no action by 1992, we must impose sanctions on those countries that are using this terrible, terrible tactic to catch immature fish and all the marine mammals on the high seas. Mr. Speaker, that is very, very important.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support for House Resolution 182, which calls for the United States to encourage the European Commission to ban large-scale drift net fishing by all EC fishing fleets.

It should be self-evident that a drift net fishing ban is in the interest of the European Community and its member nations. Indeed, such a ban is in everyone's interest. Drift nets are quite simply death machines, and have already wreaked incalculable damage in both the South Pacific and the North Pacific. Were drift nets to become common in the North Atlantic—where the fishing fleets of the EC member nations operate—these rich and productive waters could soon be stripped nearly bare.

The European Commission will soon consider whether to permit the use of 10-kilometer long drift nets, as some EC members have proposed. Drift nets of this length simply cannot be made safe, and would inevitably entangle countless incidental fish, marine mammals, turtles, and pelagic birds. Moreover, an European Commission decision to permit 10-kilometer drift nets would be in direct contravention of the U.N. resolutions that call for an end to large-scale drift net fishing.

While it is possible that the EC may seek to permit large-scale drift nets, it is also possible that the European Commission may follow the lead of the United States and ban drift net fishing entirely. It is this Member's sincere hope that the European Commission will adopt such a ban. House Resolution 182 sends a very strong message to that effect, and this Member commends the author of this resolution, the gentleman from Massachusetts [Mr. STUDDS], for his leadership in delivering that message.

Mr. Speaker, as ranking member of the Foreign Affairs subcommittee with jurisdiction over international environmental matters, this Member would note that the Committee on Foreign Affairs will also monitor the issue of drift net fishing very closely. It is an issue that demands the attention of us all. This Member urges the swift adoption of House Resolution 182.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and agree to the resolution, House Resolution 182, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The title of the resolution was amended so as to read:

A resolution to express the sense of the House of Representatives that the Secretary of State should encourage the European Community to vote to ban all large-scale drift-net fishing by all European Community fishing fleets.

A motion to reconsider was laid on the table.

INTERNATIONAL MORATORIUM ON THE USE OF LARGE-SCALE DRIFT NETS

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 113) to express the sense of the Congress that the President should seek an international moratorium on the use of large-scale drift nets called for in U.N. Resolution 44-225, while working to achieve the U.S. policy of a permanent ban on large-scale drift nets, as amended.

The Clerk read as follows:

H. CON. RES. 113

Whereas large-scale driftnets are nearly invisible, miles-long monofilament nets that are fished just below the surface on the open

seas for the purpose of entangling fish and squid in the webbing;

Whereas the best available scientific data indicates large-scale driftnets incidentally kill thousands of endangered sea turtles, hundreds-of-thousands of marine mammals and millions of nontarget fishes;

Whereas continued large-scale driftnet fishing to collect further scientific information is unacceptable because it will undermine efforts to responsibly harvest and conserve pelagic and anadromous marine resources;

Whereas United Nations Resolution 44-225 provides a strong statement of concern by the global community regarding the impacts of large-scale driftnet fishing and calls for a moratorium on the use of these nets beyond the exclusive economic zone of any nation by June 30, 1992;

Whereas unless a joint assessment of scientifically sound data by all members of the international community concludes that there is no reasonable expectation of unacceptable impacts by large-scale driftnet fisheries, the conditions for relief from the moratorium recommended in United Nations Resolution 44-225 are not met; and

Whereas the Fishery Conservation Amendments of 1990 (Public Law 101-627) declares the use of large-scale driftnets beyond the exclusive economic zone of any nations to be an indiscriminate and wasteful fishing method, contains directives in support of the moratorium called for in United Nations Resolution 44-225, and establishes a new national policy of securing a permanent ban on the use of this fishing technique: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress—

(1) that the President—

(A) should coordinate efforts between Federal agencies, affected coastal States, the Congress, the commercial fishing industry, and the conservation community to secure a moratorium on large-scale driftnet fishing by June, 1992, as called for in United Nations Resolution 44-225, and

(B) while seeking that moratorium, should work to achieve the United States policy of a permanent ban on large-scale driftnet fishing, as set forth in the Fishery Conservation Amendments of 1990 (Public Law 101-627); and

(2) that the Secretary of State and the Secretary of Commerce should submit to the Congress by not later than 90 days after the date of the adoption of this concurrent resolution recommendations and evaluation of appropriate steps, measures, policies, and changes in laws, including sanctions, which should be undertaken by the United States Government to implement the moratorium referred to in paragraph (1)(A) and to secure a ban on large-scale pelagic driftnets.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 113 seeks a permanent worldwide ban on the highly indiscriminate and wasteful practice of large-scale drift-net fishing.

House Concurrent Resolution 113 was introduced by Representative UNSOELD this past April and approved by the Committee on Merchant Marine and Fisheries on June 27, 1991. The resolution is important because it states, once and for all, that the policy of this country is to seek a permanent, global ban on large-scale drift-net fishing.

House Concurrent Resolution 113 is good fisheries policy, good environmental policy, and good economic policy. It enjoys the board support of the fishing industry and environmentalists. It makes sense and I urge Members to support it. But before I yield to my colleague from Washington to more fully explain her resolution, I want to commend her for leadership in fighting for a worldwide ban on large-scale drift-net fishing. This fight must be fought and with warriors like JOLENE UNSOELD on our side, I have no doubt about the outcome.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, the purpose of this resolution is to give our President and his administration still another push—to tell them once again that this wasteful and destructive fishing practice of large-scale drift-net fishing is wanton massacre on the high seas and has no place in the civilized world. This resolution will give us more leverage to use against drift-net pirate nations such as Taiwan, Japan, and South Korea.

Large-scale drift-net fishing is probably the single most destructive human activity disrupting marine life throughout the world. These nets—which stretch up to 30 miles in length—are awesomely efficient killing machines, causing death to endangered sea turtles, hundreds of thousands of seabirds, tens of thousands of marine mammals, and millions of nontarget fish. Japanese officials acknowledge up to a 70-percent bycatch rate—that's 70 percent of the catch being killed by mistake.

Worldwide concern over these fisheries has led to the U.N. General Assembly adopting Resolution 44/225, calling for a moratorium on all large-scale drift-net fishing on the high seas by June 30, 1992, unless an adequate conservation program can be agreed to by all parties. Congress formally supported the U.N. moratorium and established a U.S. policy of seeking a permanent ban on this wasteful and destructive fishing practice in last year's Fishery Conservation Act amendments.

With both Congress and the United Nations denouncing these fisheries, one would think that the drift-netting nations would be well on their way to ending these fisheries. Instead, drift-net fleets are expanding their destruction to new oceans, and drift-netting nations are arguing that conservation programs short of a moratorium can be developed.

Last week, I was in Japan to meet with members of the Japanese Diet and the director of the Japanese Fisheries Agency. I heard arguments that we need more studies on the impact of drift nets, and I learned that Japan believes these studies will show they will be in compliance with the U.N. resolution.

We don't need more studies. Large-scale drift-net fishing is a biologically and environmentally devastating fishing practice that makes sustainable use of our resources impossible—devastating to our fish, our economy, our jobs, and our marine environment.

As we see more and more data documenting the unsustainable rate of bycatch, as we cite more and more violations of international drift-net agreements and as we begin to uncover highly organized smuggling operations in southeast Asia, we know it's time to stop this destructive madness. It is time to implement the U.S. policy of a permanent, worldwide ban on large-scale drift-nets. And the first step is the moratorium under U.N. Resolution 44/225.

Before I conclude I want to thank the distinguished chairmen of our full committee and subcommittee for their efforts in bringing this resolution before this body today.

I also to want to thank the ranking minority member of our fisheries subcommittee for all of his efforts over many years to bring these pirate driftnet fleets under control. The gentleman from Alaska has an excellent proposal that would expand the President's embargo authority against nations that violate international agreements—such as drift nets. Currently, the President only has authority to embargo fishery products—among the few products for which the United States has a trade surplus with these nations. Representative YOUNG's bill would allow the President to embargo or threaten to embargo other products, such as electronics—products that contribute nearly $31 billion annually to our trade deficit.

The use of trade as a lever to encourage conservation is well established in U.S. law. The threat of sanctions has led to improved enforcement of the ban on commercial whaling and to improved fishery conservation off both the Atlantic and Pacific coasts.

We can debate the merits of Representative YOUNG's proposal at a later date. I mention it now because, despite last year's legislation and a U.N. resolution opposing large-scale drift nets, the slaughter on the high seas continues—and, in all likelihood, will continue until we are ready to take serious action. The first step toward making the high seas safer for marine life is the moratorium on large-scale drift-net fishing called for in U.N. Resolu-

tion 44/225. But the most meaningful and final step should be implementing the U.S. policy of a permanent ban on these curtains of death.

I look forward to continuing to work with our committee leadership on this issue, and I urge support for the resolution calling for adoption of the U.N. moratorium on large-scale drift nets.

□ 1320

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

I want to compliment the previous speaker, the gentlewoman from Washington [Mrs. UNSOELD] for her leadership in this role. This is a joint effort between the State of Washington and the State of Alaska to try to stop this terrible crime on the high seas. I do strongly support this legislation, and I urge its adoption with the other resolution.

As the gentlewoman mentioned, and I mentioned previously, we need to have a strong and stronger position to be able to implement the 1992 restriction, the U.N. resolution, and we shall have to do that, I am afraid, because these resolutions, good as they are, as the gentlewoman mentioned, last year we passed one in a reauthorization, and they have not followed the mandate of that legislation itself.

I have to say, in all respects, that the sea is one area that we must continue to protect and not only protect environmentally, we must continue to protect it from the taking of all species.

Mr. Speaker, these are nets that would go, for instance, from Washington, DC, to Baltimore. They are nets that are approximately a half mile deep. If they lose one from the back of a vessel, it continues to patrol and prowl the sea. No one ever really harvests from them, and they catch and destroy and catch and destroy.

When they are actually taken in or have not been lost, they are catching immature fish. A salmon that is caught at high seas only is one-third grown, and when he arrives on shore or the proximity of the shore, he weighs as high as 14 pounds. but at high seas he may weigh 3½ to 4 pounds. What a wasteful fishery. And why these countries are continuing to do it, I do not know.

It is not a profitable fishery. It destroys the market. And what they are doing is catching one-third of the fish, when it is immature, when they could have the whole fish closer to shore.

It not only affects Alaska, it affects all our coastal communities. If we do not put a stop to this now, it is going to go around the world. It will not be in the North Pacific. It will be in the Caribbean. It will be on the east coast. It will be all around the world. And we will have ruined our seas and those mammals and species of mammals and fish that live in it.

I again compliment the gentlewoman from Washington [Mrs. UNSOELD] and I encourage my colleagues, let us go forth and give the President the power so we can stop these countries who are not listening to the Congress today.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I rise in strong support of this resolution because it tells the administration something important. It tells the administration to get off its hands and enforce the international moratorium on illegal high seas drift-net fishing.

The destruction caused by ocean drift-net pirates, particularly from Asian nations, is absolutely horrifying, as my colleagues today have testified to. Countless thousands of marine mammals, sea turtles, sharks, tuna, and sea birds are trapped and killed because of this pernicious practice.

In the North Pacific alone, as many as 125,000 marine mammals and a quarter of a million sea birds are slaughtered each year from foreign high seas drift-nets.

Unless we stop the slaughter, and it is a slaughter, the North Pacific could become a biological desert devoid of these populations.

Especially critical to my region are the salmon whose numbers have fallen so drastically in recent years that some species have now been proposed to be listed under the Endangered Species Act. This may mean in my region major changes in hydropower generation, in navigation, in irrigation, and utility rates for the people of the Pacific Northwest. That is very difficult to accept. But what makes it even more difficult, Mr. Speaker, is watching that happen and then to see these foreign fleets criminally responsible for up to 30,000 metric tons of North Pacific salmon and steelhead being taken illegally from the North Pacific each year.

Several years ago, Mr. Speaker, representatives of the Northwest Steelheaders came to me with their concerns about this matter, the environmental and economic damage caused by large-scale high seas drift nets. I was outraged, as my colleagues who have spoken today are, and I have worked with commercial fishermen, environmental organizations, and constituents in Oregon, in my district and elsewhere, to develop legislation banning the practice of drift netting and to allocate the financial resources needed to enforce the law.

Enforcement is as important as the legislation banning the practice. As a member of the Committee on Appropriations, I have worked over the past several years to secure over a $1 billion in additional funding for the U.S. Coast Guard for enforcement of laws banning large-scale drift-net fishing. This funding had led to a dramatic increase in cutter patrols, surveillance flights, boardings, and seizures of those high seas pirates in recent years. Working with Northwest representatives and National Marine Fishery Service, we passed an amendment last year allowing the NMFS to use seized assets for further surveillance and prosecution of the illegal drift nets.

This was an important and highly effective step toward providing resources needed to enforce drift-net law. Illegal drift-net fishing is an international outrage. We must not ignore it. We must bring it to a stop.

The laws in place today are a step in the right direction, but we do need enforcement. And just as I cannot understand, as the gentleman from Alaska [Mr. YOUNG] expressed it, how foreigners can engage in this practice, I must also say I cannot personally understand why our own administration does not get tougher with these Asian nations who are condoning these practices on the high seas.

This resolution is merely a sense-of-the-Congress resolution. It is not nearly as strong as the legislation introduced by my friend, the gentleman from Alaska [Mr. YOUNG] which should be passed. But at least it is a signal not only to the Asian nations who perpetuate these fleets and condone them, it is a signal to the administration also that we want strong executive action. And this Congress demands it. And if the administration wants to avoid economic sanctions being passed by the Congress, a good way to do that would be to pay heed to the voice of the Congress expressed in this resolution today.

I compliment my colleagues who have shown their leadership on this issue.

□ 1330

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Speaker, it is time to put an end to the strip mining of fishery resources—the use of high seas drift nets.

We have discovered that the vastness of the ocean does not guarantee that fisheries will last forever. Runs can be overfished, inland habitats can be destroyed by bad forestry or water diversions, weakened fishing populations can be wiped out by disease.

These are problems generally faced by only one or two species at a time. But the use of high seas drift nets threatens an entire range of marine life.

Korean, Japanese, and Taiwanese fishermen who scour the oceans with their drift nets catch more than one target species. Their 40-mile-long nets entrap marine life from one end of the food chain to the other. The nets do

not discriminate between juveniles and adults. They snare federally protected sea going mammals, birds, even endangered species, such as sea turtles.

On California's north coast, which I represent, several runs of salmon and steelhead are on the threshold of extinction. If they disappear, much of our fishing industry will go with them.

High seas gill nets are perhaps not the most immediate threat to north coast salmon, but their threat is real. For gill nets shred the fabric of life in the oceans. They destroy not only salmon, but the fish they feed upon, and the fish those fish feed upon.

My State has already put restrictions on the use of drift nets within our U.S. waters. But fish do not know international boundaries. I ask you to support the Studds bill—House Concurrent Resolution 113—and end environmental piracy on the high seas.

Mr. BEREUTER. Mr. Speaker, the issue of the use of drift nets is not a new issue. Regrettably, in recent years this body has all too much experience with the lethal and destructive effects of drift-net fishing.

It is no secret that drift nets wreak unimaginable damage upon the ocean's ecosystem. Plastic filament nets that are 30 feet deep and up to 40 or 50 miles long, drift nets kill practically everything they gather. This practice quite literally amounts to strip mining the ocean.

The numbers of incidental killings are simply staggering. For example, monitoring on 32 Japanese boats during the last 6 months of 1989 showed that drift-net fishing incurred the following incidental killings: Over 58,000 blue sharks, 914 dolphins, 141 porpoises, 52 seals, 25 puffins, 22 marine turtles, 539 albatrosses, and almost 9,000 other pelagic birds. Incredibly, this terrible toll was exacted by a mere 4 percent of the Japanese North Pacific drift-net fishing fleet. This Member would also note that Japan has additional drift-net fishing fleets, and that several other nations are engaged in drift-net fishing. The message is clear—drift nets are killing our oceans.

Mr. Speaker, the Foreign Affairs Committee's Subcommittee on Human Rights and International Organizations, which has jurisdiction over international environmental matters and where this Member serves as ranking Republican, held a hearing last year on the deadly impact of drift-net fishing. It was an important and enlightening hearing. One of the most disturbing facts brought to light during that hearing was that drift nets entangle and kill 1 marine mammal for every 10 harvestable fish. For every 10 tuna that a drift net captures, a whale is killed, or a dolphin, or a seal. And this does not include the massive killings of birds, turtles, and nonedible fish. In short, Mr. Speaker, the wanton destruction boggles the mind.

This Member would also note that drift nets which are lost or abandoned, the so-called ghost nets, continue their destruction long after they have been forgotten and replaced by their owners. Hundreds of thousands of marine animals become entangled in these castaway nets each year, dying from man's neglect.

Fortunately the U.N. General Assembly has unanimously approved a resolution calling for a worldwide moratorium on the use of large-scale drift nets by June 30, 1992. While some might argue that a worldwide moratorium is unrealistic or overly ambitious, this Member believes it is a matter of basic self-interest demands that we work toward the elimination of drift nets. If we do not put a stop to drift-net fishing, the oceans will most assuredly die. An international moratorium is a worthy goal, one that the United States should actively support. House Concurrent Resolution 113 simply calls upon the President to seek such an international moratorium on drift-net fishing.

Mr. Speaker, this Member's home State of Nebraska does not border the ocean. On the contrary, it is as far from the ocean as any State in the Nation. So I cannot claim any parochial interest in this matter. But the protection of the oceans should not—indeed must not—be viewed as a parochial matter. On this matter; this Member is motivated to speak and act by the appalling environmental damage caused by drift nets. Therefore; this Member rises in the strong support of House Concurrent Resolution 113 and to urge its swift and unanimous adoption.

Mrs. MINK. Mr. Speaker, out in the oceans there is a menace large and sinister, lurking just below the surface of the water. It stretches for literally hundreds of miles across the open sea, bringing death to millions of creatures that inhabit the undersea world. It is the single most destructive tool of open ocean fishing—the drift net.

Imagine a single net three times as long as Constitution Avenue snaring every manner of fish, seagoing mammal such as dolphins, sea lions, and whales, and even seabirds unfortunate enough to be ensnared while simply alighting midsea. This is the reality of a fishing practice that is far too widespread, far too indiscriminate, and growing by the day.

Drift-net fishing is a lucrative technique for fishing companies. Though the countries most known for using this technique are Korea, Taiwan, and Japan in the Pacific, in the past 2 years, it has gained popularity among the fleets of France, Great Britain, and Ireland in the Atlantic.

Drift nets threaten not just the balance, but the very existence of our ocean ecosystems. With estimates that the world's oceans can only produce a total of 100 million tons of fish a year, and with present estimates at over 85 million tons, it may not be long before we could see an irreversible decline in marine life.

As a Representative of the island State of Hawaii, I fully appreciate the harm that can be done by these massive and destructive nets. Our tradition in the islands is to respect the ocean, take only what we need and can use, and leave the rest for another day. Preserving our most precious sources of life and sustenance on land and sea is a heritage too often forgotten by modern societies.

But the United States and other nations have recognized the problem, and the United Nations has called for a moratorium on the use of large scale drift nets through Resolution 44–225. Still more pressure must be placed on enforcement and more support must be given to efforts to stop the devastation of our oceans natural resources by nonabiding nations.

Mr. Speaker, I urge my fellow Members of Congress to support House Concurrent Resolution 113, introduced by my distinguished colleague Representative JOLENE UNSOELD, which calls upon the President to seek an international moratorium on large scale drift nets, and work to achieve a permanent ban on this insidious and wasteful practice.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 113, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the three measures just passed and agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

HOUR OF MEETING ON WEDNESDAY, JULY 10, 1991, AND THURSDAY, JULY 11, 1991

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Wednesday, July 10, 1991, and that when the House adjourns on Wednesday, July 10, it adjourn to meet at noon on Thursday, July 11, 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

IMPORTANCE OF ADULT EDUCATION

Mr. KILDEE. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 279) to declare it to be the policy of the United States that there should be a renewed and sustained commitment by the Federal Government and the American people to the importance of adult education.

The Clerk read as follows:

H.J. RES. 279

Whereas a well educated citizenry is the foundation of democracy, the people of all

ages should use every means available to gain knowledge and skills;

Whereas the Adult Education Act offers educational opportunities for out-of-school adults age 16 and older who lack the literacy levels needed for effective citizenship and productive employment;

Whereas the Adult Education Act serves adults who need to acquire basic life skills, to continue their eduction through secondary school, and to attain literacy levels required to secure employment or occupational training;

Whereas the Adult Education Act puts special emphasis on such adult populations as the incarcerated, individuals of limited English proficiency, adults with disabilities, adult immigrants, the chronically unemployed, homeless adults, the institutionalized, and minorities;

Whereas the Adult Education Act has provided adult basic, adult secondary, and English-as-a-Second-Language instruction to over 40,000,000 men and women since 1966;

Whereas the Adult Education Act has initiated programs located throughout the 57 States and territories, in urban, suburban, and rural settings;

Whereas the Adult Education Act encourages the participation of over 94,000 volunteers who selflessly devote their time to educating adults in need of literacy instruction;

Whereas the Adult Education Act supports the national goal that every adult American will be literate and will possess the knowledge and skill necessary to compete in a global economy and exercise the rights and responsibilities of citizenship;

Whereas the Adult Education Act reinforces the principle that we are a nation of students and recognizes that learning is a lifelong process;

Whereas on November 3, 1966, the Adult Education Act was signed into law; and

Whereas the Congress supports the Adult Education Act's goal of educating adults so that they can lead fulfilling, more productive lives: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the policy of the United States that—

(1) the 25th anniversary of Federal aid to improve the basic and literacy skills of adults through the Adult Education Act should be recognized and observed by the Nation; and

(2) there should be a continued commitment to Federal aid for educating adults through the Adult Education Act in order to increase adult literacy and assure a productive workforce and a competitive America in the 21st century.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. KLUG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Joint Resolution 279 was introduced by my colleague on the Education and Labor Committee, Mr. TOM COLEMAN, to recognize the 25th anniversary of the Adult Education Act and to reaffirm Congress' support for providing education services to the adult population.

The Adult Education Act has served over 40 million adults since its enactment in 1966, enabling those individuals, Mr. Speaker, to be full participants in society.

Additionally, the Adult Education Act plays a critical role in developing the kind of skilled work force needed for America to compete economically on a global basis.

I commend Mr. COLEMAN for introducing the resolution and urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. KLUG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this joint resolution introduced by Mr. COLEMAN of Missouri and Mr. KILDEE, which recognizes the importance of adult education. The Adult Education Act will celebrate its 25th anniversary this November. It is fitting that we acknowledge the benefits that have been accrued as a result of this act.

Not only does the Adult Education Act provide instruction for the many adults in our society who are at risk due to their lack of basic skills and literacy, but it affords adults the opportunity to gain the knowledge necessary to pass the general education development test or to receive their adult high school diplomas. Instruction is provided by over 66,000 full and part-time teachers, and over 90,000 literacy volunteers participate in the program mostly as tutors.

House Joint Resolution 279 is a fitting honor to this worthwhile progam. As we look for solutions to the critical education issues facing us, we should not forget those programs that have served us well. I urge my colleagues to indicate their support of this program through their support of this resolution today.

Mrs. MINK. Mr. Speaker, I rise to express my strong support for Joint Resolution 279 which declares it to be the policy of the United States that there should be a renewed and sustained commitment by the Federal Government and the American people to support adult education because of its importance to our Nation's economy.

Mr. Speaker, all too often we think of education only in terms of our children. We look to programs such as Head Start in the hope that if our young students get the proper beginning to their education they will be better able to benefit from academic pursuits and thereby achieve productive and fulfilling lives.

Just as I firmly believe in the importance of childhood education, I also believe that it is never too late for any citizen of this country to benefit from learning.

When, for whatever reason, an American man or woman has gone on through life without reaping the benefits of our education system, they are nonetheless a valuable resource, but there will come a time when they will feel the need to go back to school to meet the challenges of the future.

Adult education is an investment in our untapped human potential. Fulfilling the educational needs of an adult helps to build our work force in greater productivity. It means one more person who can perhaps educate others. And very importantly for mothers and fathers who seek adult education, it means that their children will benefit from learning support at home as well as in school.

Adult education may also be one of our very best means of addressing the needs of America's homeless families. Households that are headed by individuals who survived before with little vocational skills and education are often thrust out onto the street when the only jobs they knew dried up. Their lack of expertise cripples their chances of being hired and prevents them from escaping the economic hardships that keep them homeless and without hope.

It is more important than ever, in these tough economic times, that we encourage adult education, adult literacy, and job skills generally. We must redouble our efforts to help adults and in that way help families, so that our people can become more productive, better able to meet the challenges that face them and contribute to the strength of this country.

An individual is never too old to learn and we must strive to do what we can to promote greater educational opportunities for America's adults. I urge my colleagues to support this important resolution.

Mr. COLEMAN of Missouri. Mr. Speaker, I rise in support of this resolution and hope for its speedy consideration by the other body. This resolution publicly states our continued support of and commitment to the Adult Education Act as we approach its 25th anniversary this November.

We all know the costs of illiteracy to this Nation. In the workplace alone many injuries occur as a result of individuals being unable to read basic safety signs. Many workers are unable to advance in their jobs because of a lack of literacy, and productivity in the workplace lags because of a lack of basic literacy skills. Moreover, it has been estimated that due to errors, accidents and turnovers, the cost of workplace illiteracy is $20 billion annually. This is just a sample of how critical programs that foster basic literacy training are to this Nation.

The Adult Education Act is such a program. Over the course of its 25 year existence it has served hundreds of thousands of adults, enabling them to increase their literacy skills, increase their self esteem and become more productive in the workplace. Instruction focuses on basic skills, English as a second language, and high school equivalency activities. Through participation in adult education programs, many have passed the general education development test and others have received adult high school diplomas. Further, many participants have become U.S. citizens, and others have left the unemployment or welfare roles. Clearly, out investment in Adult Education Act programs has yielded significant results for the individuals involved as well as for the Nation as a whole.

The Adult Education Act is the cornerstone of Federal assistance to adults lacking basic education and literacy skills. At a time when we are hoping to raise the overall literacy rate in this country, and when the President is calling for every adult to become a lifelong learner, it is fitting to renew our commitment to the

Adult Education Act and recognize the 25th anniversary of this worthwhile program, as we do through this joint resolution. I urge my colleagues to join me in supporting the activities operated through this program by accepting this resolution today.

Mr. FORD of Michigan. Mr. Speaker, I rise today in support of House Joint Resolution 279.

This joint resolution is a statement of policy that there should be a renewed and sustained commitment by the Federal Government and the American people to adult education.

On November 3, 1991, it will be 25 years since Federal assistance for adult education and literacy programs were authorized through the Adult Education Act [AEA]. This joint resolution which we are addressing today is a much needed renewed commitment by the Federal Government offering educational opportunities for out-of-school adults age 16 and older who lack the literacy levels needed for effective citizenship and productive employment.

Many reports continue to show widespread illiteracy among adults who may not be able to read, write, speak, or otherwise communicate effectively enough to meet the demands of modern society. Illiteracy in the Nation's work force implies losses through low productivity, accidents, employee errors, and extra training programs. There is no agreement on the costs of illiteracy, but some estimates are over $200 billion annually.

The U.S. Department of Education estimate of the adult illiteracy rate is 13 percent—17 to 21 million persons. Other estimates of illiteracy range from 5 percent to more than 50 percent of the adult population.

Mr. Speaker, although the Federal Government has recognized the illiteracy problem for many years and has authorized Federal assistance for 25 years, the problem of educating America's adult population remains pervasive. It has also been cited in reports that one of the problems in the area of literacy has been the lack of a universal definition. Consequently, in 1988, Congress required in the adult education amendments that the Department of Education submit a report to Congress on the definition of literacy and then to estimate the extent of adult literacy in the Nation. Although we have received a report regarding the definition, we have not yet received an accurate estimate of the number of Americans affected.

We must renew our commitment on the eve of the 25th anniversary of the Adult Education Act to our adult population by providing educational opportunities in order that all Americans may have a more productive and higher quality of life.

Mr. KLUG. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KILDEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE] that the House suspend the rules and pass the joint resolution, House Joint Resolution 279.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 279, the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CHILD ABUSE PROGRAMS, ADOPTION OPPORTUNITIES, AND FAMILY VIOLENCE PREVENTION EXTENSION ACT OF 1991

Mr. OWENS of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2720) to extened for 1 year the authorizations of appropriations for the programs under the Child Abuse Prevention and Treatment Act and the Family Violence Prevention and Services Act, and for certain programs relating to adoption opportunities, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2720

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Child Abuse Programs, Adoption Opportunities, and Family Violence Prevention Extension Act of 1991".

SEC. 2. EXTENSION OF PROGRAMS UNDER CHILD ABUSE PREVENTION AND TREATMENT ACT.

(a) GENERAL PROGRAM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 114(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h(a)) is amended in the first sentence—

(A) by striking "and" after "1990,"; and

(B) by inserting before the period the following: ", and 1992".

(2) SEPARATE AUTHORIZATION OF APPROPRIATIONS FOR ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.—Section 102 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102) is amended by adding at the end the following new subsection:

"(h) AUTHORIZATION OF APPROPRIATIONS.—If the amount appropriated under section 114(a) for fiscal year 1992 exceeds the amount appropriated under that section for fiscal year 1991, there is authorized to be appropriated for carrying out this section $1,000,000 for fiscal year 1992.".

(b) AUTHORIZATION OF APPROPRIATIONS FOR GRANTS WITH RESPECT TO ENCOURAGING STATES TO MAINTAIN CERTAIN FUNDING MECHANISMS.—Section 203(c) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116b(c)) is amended by striking "1991," and all that follows and inserting "1992.".

SEC. 3. EXTENSION OF CERTAIN PROGRAMS RELATING TO ADOPTION OPPORTUNITIES.

Section 205 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5115) is amended in subsections (a) and (b) by striking "and 1991" each place such term appears and inserting "1991, and 1992".

SEC. 4. EXTENSION OF PROGRAMS UNDER FAMILY VIOLENCE PREVENTION AND SERVICES ACT.

Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended—

(1) by striking "and" after "1990,"; and

(2) by inserting ", and 1992" before the period.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. KLUG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to speak in support of H.R. 2720, the Child Abuse Programs, Adoption Opportunities, and Family Violence Prevention Extension Act of 1991, which extends for 1 year the authorization of appropriations for the programs under this act.

In a recent hearing before the Subcommittee on Select Education, both the U.S. Advisory Board and the General Accounting Office noted serious problems in the implementation of Federal policy in the area of child abuse and neglect. Based on their recommendation, we have decided to extend the act for 1 year.

In 1974, there were approximately 60,000 cases of reported child abuse and 1.1 million by the end of 1979. During the 1980's the number of cases had more than doubled to 2.4 million. This dramatic rise in the incidence of child abuse and neglect, together with an insufficient response to the deepening crisis, has meant that the National Center for Child Abuse and Neglect [NCCAN] is inadequately prepared to meet the challenges facing the Nation. The Advisory Board points out that the child protection system is without the resources to cope with the scale of the current crisis.

In the coming months, we look forward to working in a bipartisan fashion with the U.S. Child Abuse Advisory Board, the GAO, and other groups in taking a comprehensive look at what the Federal role should be in this area. With good will on all sides, and a desire to respond honestly and boldly to the crisis we face, we stand an excellent chance, by early next year, of crafting significant legislation that will be responsive to the realities of the 1990's. I commend Mr. KLUG and Mr. BALLENGER, the Republican members of the Subcommittee on Select Education, for supporting H.R. 2720. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. KLUG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to express my strong support for H.R. 2720 and to urge its prompt adoption. A 1-year extension of the Child Abuse, Adoption Opportunities, and Family Violence programs will authorize continuation of important research and demonstration projects on child protection and allow Congress sufficient time to consider the findings and recommendations of a recent study conducted by the U.S. Advisory Board on Child Abuse and Neglect.

Over the past two decades we have all become more aware of the magnitude of child abuse and neglect in this country. Our subcommittee recently heard testimony from experts in this field that each year over 1 million children are abused or neglected and over 1,000 children die as a result of abuse. These numbers refer only to those cases that have been substantiated. There is much evidence to suggest they are just a fraction of the actual incidence of abuse and neglect, much of which goes unreported.

I believe we all share a sense of urgency about the need to better protect children and families from incidents of abuse, neglect and domestic violence. The three programs that H.R. 2720 would extend are directed at finding ways to prevent such violence and to treat the special needs of children who are victims of abuse. The grants authorized by these programs assist States in identifying families who are most at risk and providing them with prevention and treatment services at the earliest possible opportunities.

Although these grant programs are relatively small in resource levels, the research findings and model interventions they generate have the potential to reduce the burgeoning human and financial costs of child abuse and neglect. Each year billions are spent at the Federal, State, and local levels on law enforcement, juvenile courts, foster care and residential facilities, and treatment of adults who were mistreated as children. The yearly cost of out-of-home placement and treatment for a single child is as high as $50,000 in some communities. Only by focusing on prevention can we hope to reduce the tremendous social costs of these human tragedies.

In amending the Child Abuse Act of 1988, Congress created the U.S. Advisory Board on Child Abuse and Neglect and directed it to evaluate the Nation's efforts to deal with maltreatment of children. In its first report, recently submitted to Congress, the Board concluded that child abuse and neglect in the United States now represents a national emergency. The Board also found that the system the Nation has devised to respond to the problem is failing. Most important, the Board developed a series of specific policy recommendations to reform the current system of fragmented services. Together, these recommendations comprise a new strategy for protection of our Nation's children.

The coming year will provide us with an opportunity to study the Board's findings and to develop and consider specific legislative proposals based on its recommendations. The 1-year extension provided for in H.R. 2720 will allow us to conduct those deliberations in the context of programs we have in place and to strengthen those programs in a manner consistent with a new strategy for prevention and treatment of child abuse.

In closing, I would like to recognize and thank the chairman of the Subcommittee on Select Education, Mr. OWENS, for his leadership on these issues and for continuing the Congress' bipartisan support for these programs.

□ 1340

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consumer.

Mr. Speaker, for the benefit of those who are not familiar with this act, I would like to read a summary statement.

Originally enacted in 1974, the Child Abuse Prevention and Treatment Act Public Law 93-247 established several service programs and administrative and research offices to combat problems relating to child abuse and neglect. The act has been extended and amended several times with its programs being extended through fiscal year 1991 by the Child Abuse Prevention, Adoption, and Family Services Act of 1988, Public Law 100-294. Most recently, the act was amended in the 101st Congress—Public Law 101-226—to specifically authorize services for children whose parents are substance abusers. The Child Abuse Act requires that States have in place mandatory child abuse and neglect reporting systems in order to receive money. The programs under this act are administered by the National Center on Child Abuse and Neglect [NCCAN], Administration for Children, Youth, and Families [ACYF], Office of Human Development Services [OHDS], Department of Health and Human Services [DHHS].

Currently, the act authorizes six grant programs.

Grants to States for child abuse and neglect prevention and treatment programs—with money earmarked for States to develop and use mechanisms to respond to reports of medical neglect of children, including cases of withholding treatment from disabled infants with life-threatening conditions, and to improve services for these children.

Demonstration grants to public or private nonprofit organizations designed to prevent, identify, and treat child abuse and neglect—including the identification, prevention, and treatment of child sexual abuse.

Grants to States for programs relating to the investigation and prosecution of child abuse cases, and in particular those involving child sexual abuse.

Training and technical assistance grants to, among other things, assist States in developing programs to meet the requirements relating to reporting of medical neglect.

Child abuse challenge grants intended to encourage States to establish and maintain children's trust funds to support child abuse and neglect prevention activities.

Emergency child abuse prevention services grants to State and local child abuse agencies, community and mental health agencies, and nonprofit youth-serving organizations, for children whose parents are substance abusers.

In addition, NCCAN oversees research, collects data, and studies the incidence of child abuse and neglect. NCCAN also funds a national information clearinghouse for maintaining and disseminating information on effective programs in the field. The act also authorizes a U.S. Advisory Board on Child Abuse and Neglect, an Inter-Agency Task Force on Child Abuse and Neglect, and a Presidential Commission on Child and Youth Deaths—which has never been funded. In fiscal year 1991 the components of the child abuse act have received a total appropriation of $59 million. Funds for the State grants relating to investigating and presecuting child abuse cases are provided for under the Victims of Crime Act.

Mr. Speaker, I urge my colleagues to vote for this act.

Mrs. MINK. Mr. Speaker, I rise in strong support of the vital child abuse programs that this Congress has wisely funded, the extension of authorization for the Child Abuse Prevention and Treatment Act and the Family Violence Prevention and Services Act, and especially the 2½ million children and 6 million women who were victims of abuse this past year.

The numbers are frightening. Each statistic represents a child or a spouse for whom home has become a dangerous place to live, and for many thousands of women and children this abuse leads to their death.

Since 1974, when the Child Abuse Prevention and Treatment Act became law, Congress has recognized its responsibility to protect the welfare of our Nation's children. In the 16 years of the act's existence it has been amended to address the needs of at risk children. The 101st Congress amended the act to take into account children whose parents are substance abusers.

I believe we have two important goals.

First, we must do everything in our power to stop the abuse and neglect of America's children and provide treatment for both the physical and emotional harm that has been done to them.

Second, we must support and encourage ways to prevent abuse from occurring in order to break the cycle of violence that is all too often passed on from parent to child.

We know that abuse impacts practically every area of a child's life. They often have trouble in school, it becomes harder for the child to develop emotionally, and the effect of the child's self esteem could very well last a lifetime.

With regard to family violence, we have only recently begun to understand the size and severity of spouse abuse in our country. Add to that our growing understanding of elderly abuse, and we can begin to appreciate the terrible problems facing State and local agencies. Congress has done much to encourage program development and promote the establishment of shelters for victims of family violence.

And also of importance, the Federal Government has assisted in compiling more accurate estimates of how many people are victims of family violence. With better information about the number of families affected, States can better allocate their efforts and establish greater priorities for family violence prevention programs. Even still, we know far too many cases of family violence, as well as child abuse, go unreported.

Mr. Speaker, with instances of abuse on the rise, I feel strongly that now, more than ever, Congress must express its support of the efforts across our Nation to deal with these devastating problems. I strongly urge the passage of H.R. 2720 and the continued authorization of our child abuse and family violence prevention programs.

Mr. BALLENGER. Mr. Speaker, I would like to offer my support for H.R. 2720, the extension of Child Abuse Prevention and Treatment Act. I believe that a 1-year extension of the bill will allow us the time we need to focus on ways to improve the child protection system for children and families at risk. The Advisory Board on Child Abuse and Neglect has done a thorough job evaluating the system we now have in place and identifying the weaknesses in that system. I look forwad to working with my colleages on the subcommittee over the next year to follow up on the commission's findings with specific legislative changes.

Finally, I'd like to take this opportunity to thank my colleague, SCOTT KLUG, for taking a leadership role within the subcommittee on these issues. As you know, the agenda for our Subcommittee on Select Education has an ambitious agenda this year, and I am delighted that SCOTT has been willing to share responsibility with me for handling these important issues.

Mr. KLUG. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OWENS of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and pass the bill, H.R. 2720, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2720, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF A JOINT RESOLUTION, A BILL, AND A CONCURRENT RESOLUTION RELATING TO MOST-FAVORED-NATION TREATMENT FOR THE PEOPLE'S REPUBLIC OF CHINA

Mr. MOAKLEY from the Committee on Rules, submitted a privileged report (Rept. No. 102–145) on the resolution (H. Res. 189) providing for the consideration of a joint resolution, a bill, and a concurrent resolution relating to most-favored-nation treatment for the People's Republic of China, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT OF PROCEDURE TO BE FOLLOWED RELATING TO CONSIDERATION OF H.R. 5, AMENDING THE NATIONAL LABOR RELATIONS ACT AND THE RAILWAY LABOR ACT

Mr. MOAKLEY. Mr. Speaker, this is to notify members of the House of the Rules Committee's plans regarding H.R. 5, legislation to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes. The committee is planning to meet on Tuesday, July 16, 1991, to take testimony on the bill. In order to assure timely consideration of the bill on the floor, the Rules Committee is considering a rule that may limit the offering of amendments.

Any Member who is contemplating an amendment to H.R. 5 should submit, to the Rules Committee in H–312 in the Capitol, 55 copies of the amendment and a brief explanation of the amendment no later than 5 p.m. on July 15, 1991.

We appreciate the cooperation of all Members in this effort to be fair and orderly in granting a rule for H.R. 5.

TRIBUTE TO COUNTRY MUSIC LEGEND ROY ACUFF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. CLEMENT] is recognized for 5 minutes.

Mr. CLEMENT. Mr. Speaker, I want to join President Bush and Americans everywhere in paying tribute to country music legend Roy C. Acuff, who today was awarded one of the 1991 National Medal of Arts, the Nation's highest commendation to artists and patrons of the arts.

As Tennesseans and country music fans know everywhere, Roy Acuff is truly deserving of this prestigious award. The award is given by the President of the United States to those individuals or groups who, in his judgment, are deserving of special recognition by reason of their outstanding contributions to the excellence, growth, support, and availability of the arts in the United States. Those qualities fit Roy Acuff to a tee.

Born in Maynardville, TN, September 15, 1903, Roy Acuff is the first living artist to be elected to the Country Music Hall of Fame. He became the best-known country music singer of the World War II era and has remained a leading country artist as well as mentor and adviser to many younger country musicians. His personal popularity has helped to make the Grand Ole Opry the leading country music radio and stage show and make country music one of the most loved forms of American music anywhere.

After a stint in the early 1930's as a fiddler and singer with a medicine show, Roy Acuff formed a band named the Tennessee Crackerjacks and appeared on local Knoxville radio stations. By the time the American Record Co. invited them to cut several records, they were one of the most popular groups in Tennessee and had changed their name to the Crazy Tennesseans. One of the songs with which he is most strongly identified, "The Great Speckled Bird," was on their first recording. Also from their first recording session came "The Wabash Cannonball," which Acuff has used as a signature song.

The band's statewide popularity proved helpful in getting an invitation in early 1938 to substitute on the Grand Ole Opry. According to Roy, he and the band set out for Nashville, they still argued among themselves about what material to perform. After two songs in which Roy characterized his performance as "awful," he turned to "The Great Speckled Bird," which the band had urged him not to use.

Acuff recalls that for 2 weeks after the show the band didn't hear anything. He says:

> Out of the blue I received a telegram asking me if I would come and take a regular job. The mail had come in tremendous—bushel baskets full—and they sent them on to me in Knoxville. That night "The Great Speckled Bird" changed my life.

Soon, however, Acuff would change the Opry by becoming its first singing star, beginning the trend away from emphasis on the old string bands.

During 1939 the name of the band changed to the Smoky Mountain Boys. And throughout the 1940's, Roy and the band's records were top country sellers. Their top sellers included "Wreck on the Highway," "Fireball Mail," "Night Train to Memphis," "Low and Lonely," "Pins and Needles (In My Heart)," "Beneath the Lonely Mound of Clay," and "Precious Jewel."

In 1942, Acuff joined with Fred Rose to form Acuff-Rose Publishing Co., which became a major force in country music and helped establish Nashville as its center. One of the company's first stars was Hank Williams and

among the famous titles it published were "Tennessee Waltz," "Jambalaya," and "Your Cheatin' Heart." At one time, writers under contract had written twice as many top 10 country and No. 1 hits than the next most successful publisher of country music.

During the 1940's and 1950's, Acuff became the best-known country singer in the Nation. His records sold by the millions all over the world. His name became synonymous with the Grand Ole Opry. And his repertory, heavily weighted with sacred and traditional melodies, hasn't changed much since his first Opry appearance. Writes one historian of music:

When Roy Acuff raised his voice in his mournful, mountain style, he seemed to suggest all the verities for which Americans were fighting: Home, mother, and God.

During World War II Ernie Pyle corroborated Acuff's international fame in a report filed during the battle of Okinawa. On attacking a position held by the Marines, Pyle claimed, a Japanese banzai battalion employed a battle cry which it believed the zenith of insults: "To hell with Roosevelt, to hell with Babe Ruth, to hell with Roy Acuff."

Acuff's film appearances have also helped to popularize country music. In the 1940 Republic film "Grand Ole Opry," Acuff was considered the star of the movie even though other longtime Opry stars and luminaries were featured. His other films have included "Hi Neighbor," 1942 Republic Pictures; "O' My Darling Clementine," 1943 Republic Pictures; "Cowboy Canteen," 1944 Columbia Pictures; "Sing Neighbor Sing," 1944 Republic Pictures; "Night Train to Memphis," 1946 Republic Pictures; "Smoky Mountain Melody," 1948 Columbia Pictures; and "Home in San Antone," 1949 Columbia Pictures.

While Acuff's recordings since the late 1950's have not penetrated the top of the single's charts, he has remained a fans' favorite on the Grand Ole Opry and on the road. He continued to tour extensively until he was nearly 70 years old. And, starting in 1949, when the Russians blockaded Berlin, and ending in 1971, Acuff and his band performed annually in USO shows for U.S. Armed Forces overseas. Acuff still hosts half-hour segments on the Opry several nights each week, where he sings, introduces other artists, and extols the down-homeness of country music and country living.

Roy Acuff is not only a favorite of fans, he is a favorite of his colleagues. He is respected for his musical style and his efforts to popularize country music, as evidenced by his election in 1962 to the Country Music Hall of Fame, the first living artist so honored. More important, he is beloved for his untiring encouragement of and advice to younger artists.

The title "King of Country Music" was bestowed on Roy Acuff by baseball great and long-time friend Dizzy Dean. It is hard to imagine any other individual who can wear that crown with such distinction, warmth, and generosity as Roy Acuff.

As George D. Hay, the solemn Old Judge and founder of the Grand Ole Opry said in 1945:

For many years our biggest drawing card was Uncle Dave Macon. However, from the Smoky Mountains of East Tennessee there descended upon us in 1937 a young man who was destined to become a leader in his field of entertainment. His head and heart joined the fingers which handled his fiddle and bow and it was not long before he started to burn up the countryside like a forest fire.

That fire still burns in Roy Acuff. And in recognition of him and his lifelong contribution to this uniquely American form of music, it is most appropriate that the Nation bestow on him a National Medal of Arts.

Congratulations Roy, and thank you.

[Encyclopedia of Folk, Country and Western Music, 2d Ed., 1983]

ROY ACUFF

Acuff, Roy: Singer, fiddler, band leader (Crazy Tennesseans; Smoky Mountain Boys), emcee, songwriter, record and music industry executive. Born Maynardsville, Tennessee, September 15, 1903. First living member of the Country Music Hall of Fame, elected in 1962.

Few would argue with Dizzy Dean's designation of Roy Acuff as "The King of Country Music." Embodying the soul and symbol of the Grand Ole Opry in the 1940s, Roy Claxton Acuff remained its most charismatic figure over the ensuing decades.

Giving little evidence of having must interest in a music career until he was in his late twenties, Roy, as a child, excelled in athletics. His talent was impressive: he won thirteen athletic letters in high school. While not starring on the playing field, he was holding the center of the stage. He recalled that he "acted in every play they [the high school] had."

After high school, Acuff played semi-pro baseball and had hopes of having a successful tryout for a major league baseball team when disaster struck. Playing in a game in Knoxville on July 7, 1929, he suffered a sunstroke and collapsed in the dougout. After a week, another fainting spell came and, following three months of rest, still another. When a fourth attack hit him during a round of golf, he was so ill he had to spend most of his time indoors for almost two years. Slowly he recovered his strength, and as he noted, "I had to pick me out a new career."

His father's collection of country records helped point the way. Roy spent many hours at home listening to the fiddling tunes of Fiddlin' John Carson and Gid Tanner and the Skiller Lickers, trying to emulate the masters.

By 1932, he seemed in excellent health again. But if it were not for a neighbor named Dr. Hauer, a patent medicine man, Roy might not have gone into music. He asked Roy to join his show, to sell something call "Moc-A-Tan." As Roy told Douglas B. Green of the Country Music Foundation, "There was three of us that got to do all the entertainment, and I got to play every type of character: the blackface, the little girl's part, the old woman's part, plus play the fiddle and sing. And I'd sing real loud on the med show, sing where they could hear me a long ways. Yes, I got a world of training."

The tour lasted from spring to early fall. When it was over, Roy formed a band, the "Tennessee Crackerjacks." In a relatively short time, they had a following in the Knoxville region and soon were being featured on local stations KNOX and WROL. By the time they were approached by American Record Company to cut some sides, they were one of the most popular groups in Tennessee and had changed their name to the Crazy Tennesseans. Their first session, which included an odd type of gospel song called "The Great Speckled Bird," took place in Chicago on October 26, 1936.

Even prior to that, Acuff had yearned to join the Grand Ole Opry. Several inquiries had received little encouragement. But in early 1938, star Opry performer Arthur Smith, a favorite fiddler with program fans, got into an argument with the show and was suspended. A replacement was needed in a hurry. Someone thought of Acuff and, on the rainy night of February 19, 1938, he and the band set out for Nashville, arguing among themselves about what material to offer.

The matter still wasn't settled when Roy opened their set on the Dixie Tabernacle stage in East Nashville with the fiddle tune "The Old Hen Cackled and the Rooster's Going to Crow." He was so nervous, he told Green, "I did an awful poor job of fiddling. I played back of the bridge about as much as I played in front of it." Then he turned to dobro player Clell Summey and told him to start "The Great Speckled Bird," a number the band had urged him not to use. Again he felt he wasn't at his best. When the band left for their next engagement everyone thought they'd ruined their big chance.

Acuff recalled, "I didn't hear anything for two weeks after we returned to Knoxville. Out of the blue I received a telegram from David Stone asking me if I would come and take a regular job. The mail had come in tremendous—bushel baskets full—and they sent them on to me in Knoxville. That night 'The Great Speckled Bird' really changed my life."

Before 1938 was over, Acuff had begun to make his mark on the Opry and on country fans across the country. His single of the old Carter Family success, "Wabash Cannonball," was one of the most popular releases of 1938. He caught the fancy of Opry fans so rapidly that within a year's time he had replaced Uncle Dave Macon, the original superstar of the show, as the top performer. In the 1940 Republic film Grand Ole Opry, Acuff was considered the star of the movie, although Uncle Dave and other longtime luminaries were featured. Acuff also held center stage in 1940 on the "Prince Albert" broadcast, the most prestigious portion of the Opry program.

During 1939, at the urging of Opry management, the name of Roy's band was changed to the Smoky Mountain Boys, a name that stayed with the band. Although early members like Clell Summey and bassist Ed Jones departed to be replaced by other musicians as the 1940s went by, the band makeup in the mid-1940s remained together for many years: Howard "Howdy" Forrester, Jimmie Riddle on harmonica and accordion, Pete Kirby (better known as Bashful Brother Oswald) on dobro, banjo, and vocals. Other members in the 1940s were Lonnie "Pap" Wilson, Jess Easterday, and Tommy Magness. By the 1970s, Forrester, Kirby, and Riddle still were in the fold, along with Gene Martin, Charlie Collins, and Onie Wheeler.

Roy's records were top country sellers almost every month throughout the 1940s. His top sellers of the period included "Wreck on the Highway" and "Fireball Mail" in 1942, and "Night Train to Memphis" "Low and Lonely," and "Pins and Needles (In My Heart)" in 1943. Things were going so well for him in the early 1940s that he expanded his activities into the publishing field, joining forces with Fred Rose to form Acuff-Rose Publishing in 1942. The company became a major force in country music development over the decades, and its staff of contract writers provided not only some of the finest country songs but many of the top-ranked performers as well.

During the 1940s and early 1950s, Acuff made dozens of singles and albums that were

issued on the Vocalion, Okeh, or Columbia labels (Columbia bought out the American Record Company). Some of his Vocalion singles were "Steamboat Whistle Blues," "New Greenback Dollar," "Steel Guitar Chimes," "Wabash Cannonball," "The Beautiful Picture," "The Great Shining Light," and "The Rising Sun." His output on Okeh included "Vagabond's Dream," "Haven of Dreams," "Beautiful Brown Eyes," "Living on the Mountain," "Baby Mine," "Ida Red," "Smoky Mountain Rag," "Will the Circle Be Unbroken," "When I Lay My Burden Down," "Streamline Cannonball," "Weary River," "Just to Ease My Worried Mind," "The Broken Heart," "The Precious Jewel," "Worried Mind," "Lyin' Women Blues," "Are You Thinking of Me Darling," "Wreck on the Highway," "Night Train to Memphis," "Don't Make Me Go to Bed and I'll Be Good," and "It's Too Late to Worry Anymore."

Roy's recordings for Columbia those years were even greater in number than his combined total of Vocalion and Okeh. His Columbia list included many of the songs listed above, plus some others as "Beneath That Precious Mound of Clay," "It Won't Be Long," "Branded Wherever I Go," "Do You Wonder Why," "The Devil's Train," "The Songbirds Are Singing in Heaven," "I Saw the Light," "Unloved and Unclaimed," "Mule Skinner Blues," "Not a Word from Home," "Waiting for My Call to Glory," "I Called and Nobody Answered," "Golden Treasure," "Heartaches and Flowers," "Tennessee Waltz," "Sweeter than the Flowers," "Polk Country Breakdown," "I'll Always Care," and "Black Mountain Rag."

Since childhood, Roy had harbored thoughts of emulating his father's legal career. In the 1940's he ran for governor of Tennessee on the Republican ticket, both in 1944 and in 1948. Had Tennessee been a state less dominated by the Democratic Party, things might have been different. As it was, though, Acuff lost both times and stuck to his musical career thereafter.

During the 1950's and first part of the 1960, Roy was no longer able to penetrate the upper segments of the singles charts, but remained a fans' favorite on the Opry as well as on the county fair, rodeo, and concert circuits. Even if Roy himself wasn't dominating the charts, the output of Acuff-Rose was. Through 1967, that company's writers turned out 108 song that made the top 10, including fifteen number-one records. That was more than twice as many top-10 successes as the next publisher, Hill and Range. During those years, Roy also diversified into other enterprises, operating Roy Acuff Hobby Exhibits, Dunbar Cave Park and Recreation Center near Clarksville Tennessee. He also helped Fred Rose start Hickory Records and became a member of the Hickory recording roster in 1957. (His association with Columbia ended in 1952 and was followed by brief stays with Decca, MGM, and Capitol, before the Hickory alignment.)

Most of his album work from 1957 was for Hickory. Some earlier material was reissued on various labels in the 1960s, such as Capitol's Best of Roy Acuff in 1963, Great Roy Acuff in 1964, and Voice of Roy Acuff in 1965, and MGM's Hymn Time in 1962 and Smoky Mountain Boys in 1956. He was represented on Pickwick in the 1960s by the album How Beautiful Heaven Must Be. Decca also issued material by Roy in a series of seven albums titled All Time Country & Western Hits issued at intervals from July 1960 to August 1966. His name also graced several Harmony Record LPs, such as Roy Acuff (3/58), That Glory Bound Train (7/61), and Great Roy Acuff (7/65).

His Hickory LPs of the 1960s included American Folk Songs, Gospel Songs, King of Country Music, Once More, Songs of the Grand Ole Opry, The World Is His Stage, all issued or reissued in July 1964; Great Train Songs, Hall of Fame, Sings Hank Williams (1/67); Treasury of Hits (7/69). Harmony issued the LPs Waiting for My Call in August 1969 and Night Train to Memphis in July 1970. Hickory issued Roy Acuff Time in 1970. Also released about that time was the Columbia album Roy Acuff's Greatest Hits, and on Hilltop, Roy Acuff Country.

Like most country stars during their heyday, Roy was on the road hundreds of days each year. His schedules included long overseas trips to entertain the U.S. armed forces. His first such effort was to Berlin during the 1949 Russian blockade and continued with shows in Korea in the 1950s and the Dominican Republic and Vietnam in the 1960s. Roy and the Smoky Mountain Boys also were featured in concerts in many European countries. The intensive tour grind came to a halt, though, on July 10, 1965, in an automobile accident that injured Roy and several band members. He returned to action on the Opry three weeks later, but cut back sharply on the road work, pruning his schedule to almost nothing by 1972, when he was nearly seventy years old. Roy continued to be a mainstay of the Opry, however, delighting countless fans throughout the decade of the 1970s. On the occasional Opry specials telecast on PBS, the show often included segments showing Roy happily presiding over impromptu jam sessions by Opry greats in his dressing room.

During the 1960s and 1970s, Roy's recorded output included a sizable number of remakes of earlier hits on Hickory. But he also included new numbers, such as his single "Back in the Country" in 1974. Many of those recordings, old and new, were included in the two-record Roy Acuff's Greatest Hits, Volume 1, issued by Elektra in 1978. In 1979, Elektra issued Volume 2.

Roy was nominated for the Country Music Hall of Fame in 1961 and his plaque was unveiled there the following year. It read, in part, "The Smoky Mountain Boy . . . fiddle[d] and sang his way into the hearts of millions the world over, often times bringing country music to areas where it had never been before. 'The King of Country Music' . . . has carried his troupe of performers overseas to entertain his country's armed forces at Christmas time for more than 20 years. Many successful artists credit their success to a helping hand and encouraging words from Roy Acuff."

VICTIMS OF THE NOTCH INEQUITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island [Mr. MACHTLEY] is recognized for 60 minutes.

Mr. MACHTLEY. Mr. Speaker, today I begin this special order with many of my colleagues who may or may not have the opportunity to be here because of the holiday schedule and coming back. This special order is to once again discuss the notch victim scenario and try and explain the historical facts that occurred, and explain the consensus bill that has been filed here in the House where there will be a press conference tomorrow to try and get more of our colleagues to join.

The first question is obviously raised by the issue of notch, and as I discuss this, I am sure there are Members who have had a great deal more experience, who have listened to these arguments, who have sat and heard the various explanations made, who are saying, "Not again, I thought we resolved this issue."

Frankly, when I first heard of the notch, I thought perhaps it was an issue of fairness, which has been clearly thought out, one which has been articulated, and one which did not need a resolution. However, as I began to review the scenario, as I looked at the record, I looked at what had happened and what had been intended, and it became clear to me, at the urging of my parents who are both notch victims, that what happened is unintended, and what has occurred is clear discrimination based on nothing more than fortuitous births.

The first question one might ask, how many people are really affected by this notch inequity and the Social Security payment system? The estimate is that some 7 million people were born between the year 1917 and 1921. An additional 5 million were born in the years 1921 through 1926. There are some who try and characterize the notch years as a very distinctive category of years between 1917 and 1921.

As the charts will show, it actually extends beyond 1921, out to 1926 through the transition formulas. In 1972 Congress increased the Social Security benefits by 20 percent to assure the retirees in the Nation that they would have a standard of living which was increasing with rising wages and rising inflation.

□ 1350

At the same time, Congress provided for automatic future increases based upon changes in wages. This 1972 law in effect had automatic changes for wages and price adjustments. Automatic adjustments after 1972 were to become effective in 1975.

In the interim, Congress provided for an 11 percent increase in 1974.

In 1975, the Social Security Advisory Council warned that the formula could become too generous in the next century, and in fact some said that the repayment to those who were retiring in the next century could in fact exceed their replacement rate contribution.

It was also intended that the replacement rate, which is a term of art which is used when discussing Social Security benefits, would approximate 42 to 45 percent.

In 1976, it became clear that it was increasing at the rate which then in 1977 was 54 percent.

In 1976, President Gerald Ford proposed that the benefit formula be revised to slow the increase in benefits

over the long-term period. He did this by suggesting there should be a 10-year transition period.

In 1977, President Carter incorporated President Ford's benefit proposal into the Social Security reform package he sent to Congress.

Here in Congress, after nearly a year of debate, we passed a 10-year proposal, and the Senate passed a measure calling for a smaller 5-year phasing.

The final bill drafted in conference committee incorporated the Senate's shorter 5-year phasein and increased the benefits based on the House proposal.

In 1978, the Social Security Administration in its monthly research bulletin published an article by its chief actuary warning that a technical amendment may be necessary to provide a smoother transition. In particular, he said the drop in replacement rates for age 65 retirees will be about double what Congress anticipated. Congress anticipated that during this transition period of time for those people who were born from 1917 through 1921 that the transition reduction would be approximately 5 to 6 percent. This is a very complex formula which was used prior to 1977 and is frankly a complex formula which was used for the transitional period, but what was intended was clearly not to create such a drop in anticipated earnings that those people who would retire at age 62 and 65 would see an unexpected or precipitous drop in their incomes; but what happened was precisely what was not intended. In fact, in 1920 for people who were born then, their income is decreased 20 percent over what they would have received had they fortuitously been born in 1960.

This chart which I have here I think very clearly shows the average monthly benefits for those who were going to retire at age 65. Here is what we would have had in this blue line under the 1972 law. You can see it was increasing at a much faster rate than was probably possible to fund.

Congress, both the Senate and the House, had anticipated in 1977 that they would have a gradual transition below the 1972 law, but certainly not what this red line reflects the actual drop.

If you look at this and you see the 1917–22, et cetera, you see this precipitous drop. This was the final year for those born in 1960 and then it began to drop.

The people who are least affected were those who were 62 because this happened to be the set of facts that Congress had used for those who were 62 and retired before this transition rule went into effect, but what Congress forgot to look at is what happens to those people who were 65 and retired during this transition period.

This next chart I think shows it clearly. The purple is the average benefit of what was actually being received. You can note from 1910 up through 1917, again the precipitous increase in benefits based upon the replacement rate formula which was used.

In 1977, a new formula was introduced and they said we are going to reduce it by 5 percent; but note the difference between this blue line and this blue line, and then between this blue line and compare that with what would have been received had the person been born in 1915 or 1916.

Finally, when you get down here to 1920, as I indicated earlier, there is a full 19.5 percent reduction below what was anticipated.

What you see here in the red I will discuss in a few moments. That was what was anticipated. They wanted to have a smooth curve, one which would easily transition into the new formula; but because of the reduction in replacement rates which went not down to 43 percent from a high of about 54 percent in 1976, but what went down in fact in the year 1940 to 40.3 percent. That was totally unexpected and unplanned for.

The House Ways and Means Committee in 1979 held numerous hearings to try to determine was this anticipated, was this to be corrected, or were they merely to permit this to continue to occur?

In 1983, Dear Abby announced to the Nation through perhaps a very innocent column and a letter that this was in fact discrimination. Many people began to ask questions about why they were receiving less money because of the fortuitousness of their birth date.

In fact, if you say, well, how much is really involved here, if you took the average worker who was born in the period of 1917 through 1926, if you took an average wage earner during this period of time who retired at age 65, that person, male or female, would receive an average of $912 less per year than someone who was born fortuitously either before 1917 or after 1927, so we are talking about a substantial amount of money.

When you look at just the year 1920, the actual reduction in their receipts is substantially higher than the average of $912.

If you took a person who was 62 on their retirement, the difference between what they would have received during this period of time and the average of what they would have received prior to 1916 and after 1927 is $456, still a very substantial sum.

The period 1920, let us look at that one year for those who are so unfortunate to have been born in that year when they go to their post office and accept their Social Security check. Their difference is $1,992, based upon the average receipts for Social Security beneficiaries different than had they been born in 1916, in 1917 or beyond; so we are talking about a substantial amount of money here.

What makes this even more critical is that these people who were born during this period of 1917 on out through 1927, who are now our senior citizens, are the least able to go back into the work force and to earn additional income. Frankly, we even penalize them for what they have paid into the Social Security system. If they go back into the work force we are telling them we are going to reduce their receipts based upon their earnings beyond a certain limit.

Frankly, I feel that is discrimination in and of itself, and if we are going to want to encourage people to work, we need to remove that earnings test completely, but that is a story for another day.

Today we are just talking about this inequity, this discrimination, this unintended consequence which we now have, and which affects 12 million people.

In my home State alone, Rhode Island, 63,000 people are affected by this unintended consequence.

You may say, well, it is not that important, it is relatively small when you break it down in a monthly check. The difference, though, that $83, that $125 a month, may be the difference between having an adequate nutritious meal, being able to pay for your rent, paying for your heat in the winter, that is what it means to our elderly. These are the same people, also, who went through the Depression, who raised my year group—the baby boomers—who wanted to make sure that we got a college education and in many cases had a better opportunity than they had, who fought during World War II, who established the preeminence of this country in the world, and who now are asking not for something which is more than they are entitled to; what they are asking for is equity.

□ 1400

Our system of government has always relied upon this concept of fairness and equity. When you look at the facts, when you consider the difference in payment, based upon unintended consequences and based upon fortuitousness of birth, you find a situation which is totally unacceptable.

Now, why has something not been done? People have talked. Many of the people have said, "Let's not get involved. We can not in fact afford to replace the difference in cost." While we talk, unfortunately, people who were born between the years 1917 and 1927 are dying daily. These are our senior citizens, there are many of them still paying taxes, in many cases, those who are helping their grandchildren; but they are waiting, waiting for some resolution.

In the past Congress we had 10 bills, as I indicated when I started. Many of my colleagues have been fighting this issue since the very beginning of the

recognition of the mistake which was made.

Congressman ROYBAL, Congressman RINALDO, Congressman FRED GRANDY, and in the other body many of the Senators have been leaders, have been outspoken and have looked at this and have crafted unique, different, and, I think, very positive potential resolutions. But we had 10 bills in the last Congress. Though we had many, many cosponsors on these bills, we also found that we could not get everyone to agree on a possible resolution.

There were some who said, "Let's go back in time to the period in which these people were discriminated against, and let's give them money for their past discrimination."

There were those who said, "Let's give them what was anticipated. Let's go back to the old pre-1977 formula. Let's give them what they should have gotten under the 1972 formula."

I think it is fair to say that under the 1972 formula there are those who got what we can call the bonanza. If we have what is referred to as notch victims, we have prior to 1917 bonanza beneficiaries and we cannot go back. I think it would be generally considered an inappropriate act to say: "Let's go back and change the formula and take away the money which these people," who are often those who, if you look at those who are living in poverty in this country, it is our senior citizens, particularly the senior woman who has survived her spouse, who is living off his social security. It would be totally unconscionable to go back and take away her benefits.

So we have those who said, "We can't continue this increase in benefits. We can't in fact give them what they should have received under the pre-1977 law." But I think there is a better approach, one which gives the equitable resolution which people are asking, and that is what has been discussed and put into language—not yet law; we hope it soon will be law—under the House bill which has been drafted as H.R. 917.

What this House bill says is, there is a recognition that an inequity, an inequitable scenario developed. We cannot go back, because we may not be able to afford it and pay for what they should have or could have received had they been born prior to 1917.

But what we might be able to do is fill in the pothole, look at what has been referred to as the notch, and we ought to be able to do what was anticipated, what was intended. Reduce it by a 5- or 10-percent figure over the 1926. You can see in 1928 the formula begins to increase for those beneficiaries who were born after 1928. So that the years that we need to figure out a transition for are the years 1917 through 1927, that same, coincidental 10-year period which President Ford and President Carter wanted in their original resolution.

The way that is proposed in the bill, H.R. 917, to correct this is to look at what the person would have received under the pre-1977 bill, figure out what his or her benefits were, and then we take the new formula under the post-1977 benefits, and we compute what they would have received under that scenario. We subtract the two, and we get a delta, the difference between pre-1972, if it had been under this, and what it had been under this (indicating).

So the difference between these two is the delta. We then have a multiplier that we use for each year because you can see that for each year from 1917 through 1927 there is a difference in what was or what is being received under this replacement value.

The difference is a multiplier. We multiply the difference between pre-1977 and 1972 formula, the 1977 formula by the delta, and then we add that to what is now the replacement rate under the 1977 formula.

That gives us what you see, the benefits by year based on birth, which was anticipated.

The monthly benefits increases for a worker who is retiring at age 65, who was born in 1918, would be $64; the wage increase here for an average worker—and again please do not misunderstand an average for every worker, because it is the equivalent of looking at a swimming pool; one end may be 3 feet deep and on the other end it may be 9 feet deep, or even 12 feet deep. The average is somewhere in between.

So you have to look at your specifics.

But if you look at the average worker in this period of time, in 1917, you would add $46 per month onto their existing check. When you get down to 1920, the largest discriminatory factor, you would add $88; 1921, it would be $72; $59, $47, $30, $15, and finally out in 1926 it would be $16.

That would give you a smooth transitional curve which would in fact, I think correct this inequity. The obvious question that comes up is if this is so simple, "Why don't we do it?"

The argument that has been raised time and time again is that it costs money. I think that is a fair argument. But let us look at the facts.

The Social Security system has been increasing at a fairly remarkable pace. In fact, there are those in Congress and out in the media who would suggest it is increasing at such a rapid rate that we should reduce or do away with some of the Social Security payments which the middle income has to pay and, therefore, it will reduce their tax burden. This increase in rates is increasing over 1991, on this chart, through 1999. By 1999, at the current rate—and there is no reason to expect that during the next 9 years we will have a different increase—you can see that we anticipate that we would have about $1.123 trillion in the Social Security surplus. Even in 1977, when they had the hearings and testimony on what was going to amass in this system, it was always anticipated that in the years 1997 through 1999, some place in this scenario we would have this amount of surplus.

Now, frankly, looking at this amount of surplus, I am doing so from a very personal standpoint because once you get beyond here into the year 2010, then my generation—the baby-boomers, the post-World War II baby-boomers—we are going to need all of that surplus in order to pay our benefits because the number of workers, the number of small children in this country, has been drastically decreasing.

What would it cost? It is estimated in 1992, if we fill in the pothole, it would cost $4.6 billion. That is a lot of money. But if you look at it in relationship to how many billions of dollars we have in the trust reserve, it is merely a small, small fraction. In each of these years out through 1995, you can see that we never go over $4.9 billion, never go over $5 billion per year. Now, one can say that if you took this out beyond the year 2000 and added $5 billion, times the number of years that we have, which is 10, for instance, that would be $50 billion and that is an excessive sum of money.

I think when you put it in relationship to what the current reserve is in the trust fund, no one will know the difference between giving to those people who ought to receive the money because it is not new taxes that are needed, it is not additional revenue that is needed, it is merely taking out of the reserve fund and helping those who definitely—as a result of their inability to have this money—recognize the loss of this additional sum of money.

To the woman who is living on a fixed income, $83 a month means a great deal. To the country, which has a surplus of $1.1 trillion in the Social Security system in 1999, $83 may not mean a great deal of money.

□ 1410

However, Mr. Speaker, we do have, as indicated in here, sufficient moneys, and so that argument is not there, and I think it is time that we explain this, and I think there are frankly arguments in Congress that sometimes miss the mark. But I think here, clearly, we have a situation which is again discriminatory, but we also have a very reasonable way of paying for it and ending this discrimination.

We now have about 234 cosponsors on H.R. 917. This is a bill which I think is affordable and which, in fact, tells other senior citizens that we have not forgotten them, that we recognize what was unintended and that we intend to correct it before they die off. Clearly, once we start getting beyond 1999 and go into the next decade, there will be fewer of these notch victims available or alive because of the natural life cycle, and so, when we go beyond here,

this amount of money will actually start to decrease, and it will no longer be a reduction in the surplus which has been accumulating in the Social Security system.

Mr. Speaker, it is an important issue, and it is important because it is affecting our senior citizens. They never asked for more than they are entitled to. Often these are people, our parents who are at home, who are our neighbors and friends. They ask only for what they think is fair.

I have yet to see a senior citizen who knows that his grandchild is expecting to live in a country as wealthy, as fortunate, and as a leader in the world, who is asking for their grandchild's inheritance. What I hear is senior citizens who are asking for what is due them because of a fortuitous circumstance of their birth, and I have heard this, as I am sure other Congressmen have.

Mr. Speaker, this is a box of 5,000 of my constituents who have written in saying, "We are affected, and we feel so strongly about this that we want you to do something. We want you to speak out and try and correct this inequitable scenario. We want you to try to convince your colleagues that this needs to be changed." Five thousand voters, 5,000 senior citizens, 5,000 human beings, are being affected to the point where they will sit down, write, put a stamp on it, and mail it to their Congressman. That tells me these people understand the inequitable situation which is occurring.

Mr. Speaker, at this time I yield to a distinguished colleague, the gentleman from Florida [Mr. GOSS] who has been a leader on this issue.

Mr. GOSS. Mr. Speaker, I thank the gentleman from Rhode Island [Mr. MACHTLEY], very much for yielding, and I want to commend the Congressman from the Ocean State for doing such a fabulous job of explaining where we are and why we are there on this subject.

It is often said that there are two things certain in life; death and taxes. Well, I can tell my colleagues that there is more than that: death, taxes, and letters on the notch baby, as we have just seen.

I say to the gentleman from Rhode Island [Mr. MACHTLEY] "For your 5,000, I'll match you and raise you two, and then we'll keep counting."

Mr. Speaker, in my area of Florida alone I believe we have something like 893,178 people affected in the State of Florida. I believe a good share of them must be from my district. I personally know many of them, and I have corresponded with just about all of them it seems. The reason is because this is unfair, as the gentleman has said so eloquently.

Some might wonder and say, "My gosh! Why is it that, while you've done this brilliant exposition here today, we don't have more than those 234 colleagues available right now?" The point is that much of the business of this body is done in committee and in hard-working groups, and then it comes to the floor, and we have opportunities like this to discuss these things and to update each other on what is happening and to recognize the progress that has been made, and I suspect that, as we all go through the vagaries of the scheduling program here, that some days it is hard to know exactly what time we are going to do what piece of business. But this piece of business' time is coming, and it is coming because people like the gentleman from Rhode Island [Mr. MACHTLEY] are making it happen, and I commend him for the people in Florida who are thankful for his leadership on this at this time.

Mr. Speaker, I sometimes think when we talk about the fairness issue, I think of my own family. I have four kids, and I have made arrangements with them for certain chores. They get certain allowances, and, if I tried to say at the end of the month, "Well, I seem to think I might run out of money, so I'm going to pick one of you four children not to get your allowance this month," I would expect to hear something about fairness, and I suspect some of the things I have tried to teach my children about fairness and some of the values that we try and teach as leaders about fairness in this Nation would come home to roost.

Mr. Speaker, I do think there is a very critical fairness issue here. I say, "You can't ignore 12 million people who are affected because of an arithmetical formula. They have needs, as I believe it has been beautifully pointed out by Congressman MACHTLEY, and there are varying degrees of dollars involved. It may be a hundred dollars a month, it may be a little more, it may be a little less, but it means a lot to retirees on fixed incomes, an awful lot to retirees on fixed incomes, and we have a great many of them, I suspect, in the Congressman's district in Rhode Island and certainly in my district in Florida."

I think the last point I would like to make on this now is: Will this go away if Congress does nothing about it? Inevitably, statistically, arithmetically, it has to go away. Despite the marvels of the medical profession we are not all going to live forever, so inevitably this will pass. But is that right? And the answer is clearly: No, this is not right, it is not fair, it is not American to ignore it, and we have got to do something about it.

Perhaps the people of our Nation are going to do something about it before we do. I hope not because we are supposed to be leading.

I would like to share with my colleagues, if I may, a very brief statement which explains how the feeling runs in our district. There is an authoress named Martha Parnell from Fort Meyers who wrote a book called "Bye Bye Poverty, Ola Mexico." It is a true story about a, quote, very broke notch baby trying to survive financially on our Social Security. The dedication on this book reads:

> I dedicate this book to all you notch babies, wherever you are, and, if Congress has not corrected that big fat mistake by the time you read this, I suggest we vote the (expletive) out of office.

That is a very subtle statement about the fact that patience is running out, and I am just delighted to be able to be here today to share with the gentleman from Rhode Island [Mr. MACHTLEY] the good news that we now have 234 sponsors on this bill, and that we are making progress, and there is good stuff ahead with people like the gentleman from Rhode Island leading.

□ 1420

Mr. Speaker, it is now my distinct privilege and pleasure to yield to the gentleman from Massachusetts [Mr. FRANK], who has 330,000 constituents who are victims of this Notch Act.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman from Rhode Island.

Mr. Speaker, I have enjoyed the chance to work with the gentleman from Rhode Island on a number of issues. Since our districts join, we are often working together on matters involving the economy, the banking situation, and the environment. I thank him for the leadership he is showing here because he knows, Mr. Speaker, that the unfairness of the Notch Act has been a particularly sore point to many people in that part of New England that he and I represent, Rhode Island and the southeastern part of Massachusetts. It is an area where there are a large number of people who care a great deal about American values. Some of them are recent immigrants. More are the children of immigrants or the grandchildren of immigrants. Some, of course, are people whose families have been here longer. But they are people for whom American ideals are very real. They are people, on the whole, who have worked very hard.

The Notch Act is not a subject of great interest to the very wealthy. People concerned about the loss of $50 or $125 a month on Social Security payments are not the people who are living off their investments, they are not the people who are living off their great wealth, they are hard-working men and women who did what they were told they were supposed to do in America. They went to work, many of them at an early age. Of the current victims of the Notch Act, I do not think there are many we are talking about who are college graduates. We are talking about people who were children in the Depression and who left to go to work

soon after high school, if they were lucky enough to finish, in many cases. They went to work to bring in money to support their families. They are people who have worked 30 or more likely 40, sometimes 50 years at hard jobs, in textile factories, in the mills, in other manufacturing industries, and in service industries, making deliveries, making repairs, being available to others. They worked hard. They earned money, and they put their children through school. They gave to their children the benefits they could not have themselves. They built homes, and they bought homes. They are people who contributed mightily to this country, and they are particularly, when we look at the numbers of people born in 1917 and after, the generation that fought World War II and saved civilization from the greatest threat it has known in modern history, Adolph Hitler.

What they are saying is very simple. They are saying, "Please do not deprive us of money based on an accident of when we were born."

We have a great deficit in this country that we all want to reduce. My friend, the gentleman from Rhode Island, myself, and others are not here asking to increase the deficit in any meaningful way, because what we are talking about, as the gentleman from Rhode Island has literally and graphically made clear, is surpluses. We are talking about taking a small part of a growing, enduring surplus and making it available to people who suffer because of when they were born.

We are not asking to repeal the entire act that brought about this situation. Yes, there was an error that came about in the 1970's in that people were being overcompensated for inflation after retiring as a result of legislation adopted in the early 1970's. The part of the bill that became law in the 1970's that reduced that is not at issue. What is at issue is how we reduce it, what discriminatory impact we allow. What can we do for those people who were caught by that accident of birth?

We have had countless examples of people who worked side-by-side at the same job for the same wages for years and years and years, and then on their retirement found that one was getting $75 or $100 a month more than the other because one was born 2 or 3 years earlier. That is not in compliance with the American ideals these people put forward.

I want to see the deficit reduced, Mr. Speaker. I see the chart that my friends has exhibited there. Let me ask the gentleman again so that I may be sure: What are we talking about as an actual rate of expenditure in our legislation?

Mr. MACHTLEY. This would be, beginning in 1992, $4.6 billion out of an increased surplus of $350 billion.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman from Rhode Island.

Let me make one other point about the $4.6 billion we are talking about. It is less than the amount that the United States spends to subsidize the defense of Japan. The United States taxpayers pay more to keep troops in Japan than we are asking to be put in the notch. The United States taxpayers pay infinitely more to continue to deter an attack that is not coming in Europe by the Warsaw Pact that we are asking here.

Yes, we should be saving money. We should be providing greater efficiency to the greatest extent that we can. We could be cutting back in areas such as in defense and elsewhere. But to say to 72-year-old men and women who have worked hard all their lives that they would get less than others identical to them in every respect except a couple of years difference in age is not worthly of the greatest country in the world.

What we have here is a compromise. It is far less then everything people are asking for, but it is a significant amount. We are talking about hard-working people who are living day-today and month-to-month on their social security in many cases, people who have earned better from this country than they are receiving.

So I am pleased to join with the gentleman from Rhode Island in this effort. We have a lot of people coming together on this, including the gentleman from California [Mr. ROYBAL], who chairs the Select Committee on Aging. It is bipartisan, it is national in scope, it is fair, and I hope the leadership of the House will take the simple step of allowing us to vote on this.

Mr. MACHTLEY. Mr. Speaker, will the gentleman defer to me for just a moment?

Mr. FRANK of Massachusetts. Yes, of course.

Mr. MACHTLEY. Mr. Speaker, one thing I think that is so important to point out to our colleagues who may be concerned about where we are to get the money based upon our budget agreement which we passed is that the money is there. We are not asking for a new appropriation of money. What we are asking is to take it out of reserves that are increasing.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for pointing that out.

When people say, "Oh, we would like to maybe do that, but we can't because of the budget agreement," we have to remind people that the budget agreement was not imposed by Brazil or the budget agreement was not enforced against us by India. The budget agreement is an act of Congress, and if we have a perfectly sensible thing we want to do that requires a small amendment to the budget agreement, we can do it. What we are saying is that we have huge surpluses that are building up in Social Security, and let us make those surpluses a little less big. Everybody acknowledges this, and we ought to be clear as to why we have this big surplus.

In 1980 the panic set in and everybody was afraid that Social Security was going to wind up, because we had, in the late 1970's and the early 1980's, because of the oil shock and other things, very high inflation, double-digit inflation, and then we had a bad recession, and we did projections and we assumed that the payroll tax was not going to be able to bring in what we needed to make those high-digit payouts. But inflation subsided for a variety of reasons, the recession ended, and we have in fact had a higher level of employment than we thought we would. So we brought in much more Social Security trust fund money than had been anticipated, and we did that, by the way, people should understand, not profligately. We raised the Social Security taxes on working people, and we cut the benefits. In 1983 Congress and the President put through legislation which cut the cost of living in half. I voted against it, but let me point out my two colleagues were not here at the time, so we are able to discuss it fairly freely. But the fact is that we raised the taxes and they cut the benefit. That is why we have a big surplus.

So we are saying that for the American people, having been taxed more for Social Security and the cost-of-living increases having been in effect cut in half because the payment date for the cost-of-living increases was pushed back from July 1 to January 1, that is the same as cutting it in half every year—or it is cutting it in half every year—and we are saying that we should take some of the enormous surplus we are building up as a result of that and distribute a very small amount of it among people who are being discriminated against because of their age.

I thank the gentleman from Rhode Island for giving us the chance to voice our support for this. If people want to know, is this why we support it in Congress, the answer is, "Of course," or else it would have been on the floor, and if people do not like this and they could beat it, they would not vote it out here. But I am ready to stand up and say, yes, I understand what I am doing. I am reducing a large surplus. It is in the amount of several billions of dollars, and given the size of the surplus, it does not represent a significant fiscal impact. It is within the margin of error in estimating by far on the annual deficit.

Mr. Speaker, I thank the gentleman for yielding.

□ 1430

Mr. MACHTLEY. Mr. Speaker, I thank the gentleman from Massachu-

setts [Mr. FRANK] for not only participating in this special order, but last year when we had this special order, I was reminded before I came over here that when we did this special order on this issue last year, we had more Members join us than in any previous special order for the whole year. While we probably have fewer Members here today, I think there are more Members who are becoming aware of this scenario in Congress and who want to make a change.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman will yield further, we ought to point out that today is a day on which there are no votes being taken in Congress, so many Members are in their districts being available to their constituents. That is why there are fewer Members here physically participating.

Mr. Speaker, that is certainly no sign of diminished interest. We have a majority of Members of the House cosponsoring this bill for the first time. People expecting this to fade away should look at the increasing number of cosponsors and realize their expectations.

Mr. MACHTLEY. Mr. Speaker, as the gentleman from Massachusetts [Mr. FRANK] knows, if we tried to put a discharge petition through, we now have 234 sponsors of this bill. If every one of them signed a discharge petition, it is certainly possible we could get this bill on the floor. I think it is important that we all, in a bipartisan fashion, work to find a resolution to this. It may be tangentially important or connected, but I think when you look at what is happening in this country in health care today, people who are the least able to pay for their plan 65 coverage, their additional prescription drugs, the people who are most impacted by the inflation in health care, are the senior citizens. If you can put $50 to $100 a month into the hands of senior citizens, people like Carl Stockman in Patuxent, Lucy Castro, Nellie Zerva, and Caesar Pina, all of these are people who have written me saying, as Yvonne Nolan says, "I am 70 years young, and I lost my husband a year ago. I need that extra money to help me live."

These are not people going on vacation. These are people who are trying to make ends meet on very limited budgets with inflation eating away at their buying power.

As the gentleman from Florida [Mr. GOSS], who has been so active on these issues, as well as the gentleman from Massachusetts [Mr. FRANK] know, those States who have large senior populations, we witness on a regular daily basis people coming to our office, who are not looking for enormous amounts nor extreme assistance. What they are looking for are basic substances of life, the ability to pay their rent, their heat, their food, and maybe, just maybe, enough money so that they can give their kids a gift on one of their birthdays or the holidays.

One of the things I wanted to point out for Members and staff and others who may be watching, when the question comes up, who will be affected by H.R. 917, the answer is that retirees who were born after January 1, 1917, and before January 2, 1927, and their dependents, retired workers are first eligible for benefits on their 62d birthday. The second category are survivors of workers born after January 1, 1917, and before January 2, 1927, if the worker dies on or after the year of his or her 62d birthday.

The third category are workers which are often forgotten when we talk about Social Security benefits, and those are the disabled. We are talking about disability beneficiaries for those born after January 1, 1917, and before January 2, 1927, beginning with the month they attain age 65, and are reclassified as retired workers.

Mr. Speaker, this is a very important issue. As I indicated, there will be a press conference tomorrow at 10 o'clock. The intent of this special order is to make people aware of the issue, to make staffs and Members of Congress aware that there is a consensus bill, one bill in Congress, which can clearly and equitably create a scenario that is financially possible, and will take care of an inequitable situation which is discriminating against our senior citizens, our parents, like Ken and Mary Machtley, who have worked hard to make sure I can get an education to be here today.

Mr. Speaker, we must as Members of Congress recognize an obligation to represent their interests, as well as those of young Americans and middle aged Americans. Our Nation is diverse ethnically as well as from an age standpoint.

Mr. Speaker, we have an obligation as Members of Congress to represent all strata of our constituents. None have such little importance that we should overlook them. Every classification, every age group in our constitutency, needs to have a voice.

Often senior citizens are unable to come to Washington, unable to write or speak out. So today I am pleased and proud to be here in the well of this distinguished body to talk about an issue which I think is unfair, and which ought to be corrected. I greatly appreciate the support of Members. We will have more special orders. We will talk about this issue until such time as it is corrected.

GENERAL LEAVE

Mr. MACHTLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the subject of my special order today.

The SPEAKER pro tempore (Mr. OLIN). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. MACHTLEY) to revise and extend his remarks and include extraneous material:)

Mr. EMERSON, for 60 minutes, on July 18.

The following Members (at the request of Mr. BILBRAY) to revise and extend their remarks and include extraneous matterial:

Mr. DORGAN of North Dakota, for 5 minutes, today.

Mr. ANDREWS of New Jersey, for 5 minutes, today and July 10.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. CLEMENT, for 5 minutes, today.

Mr. OWENS of New York, for 60 minutes each day, on July 29, 30, and 31 and on August 1 and 2.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MACHTLEY) and to include extraneous matter:)

Ms. ROS-LEHTINEN in two instances.
Mr. MACHTLEY.
Mr. BROOMFIELD.
Mr. DORNAN of California.

(The following Members (at the request of Mr. BILBRAY) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN in 10 instances.
Mr. ANNUNZIO in six instances.
Mrs. LLOYD in five instances.
Mr. HAMILTON in 10 instances.
Mr. DE LA GARZA in 10 instances.
Mr. DE LUGO.
Mr. SERRANO in two instances.
Mr. MCMILLEN of Maryland.
Mr. ASPIN.
Mr. YATES.
Ms. LONG in two instances.
Mr. RANGEL in two instances.
Mr. TORRES.
Mr. SWETT.
Mr. LEHMAN of Florida.
Mr. MURTHA.
Mr. LUKEN.
Mrs. LOWEY of New York.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint res-

olutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2332. An act to amend the Immigration Act of 1990 to extend for 4 months the application deadline for special temporary protected status for Salvadorans;

H.J. Res. 72. Joint resolution to designate December 7, 1991, as "National Pearl Harbor Remembrance Day";

H.J. Res. 138. Joint resolution designating the week beginning July 21, 1991, as "Lyme Disease Awareness Week";

H.J. Res. 149. Joint resolution designating March 1992 as "Women's History Month";

H.J. Res. 259. Joint resolution designating July 2, 1991, as "National Literacy Day."

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 674. An act to designate the building in Monterey, TN, which houses the primary operations of the U.S. Postal Service as the "J.E. (Eddie) Russell Post Office Building," and for other purposes.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On July 1, 1991:

H.R. 2332. An act to amend the Immigration Act of 1991 to extend for 4 months the application deadline for special temporary protected status for Salvadorans:

H.J. Res. 72. Joint resolution to designate December 7, 1991, as "National Pearl Harbor Remembrance Day";

H.J. Res. 138. Joint resolution designating the week beginning July 21, 1991, as "Lyme Disease Awareness Week";

H.J. Res. 149. Joint resolution designating March 1991 and March 1992 both as "Women's History Month"; and

H.J. Res. 259. Joint resolution designating July 2, 1991, as "National Literacy Day."

ADJOURNMENT

Mr. MACHTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 36 minutes p.m.) under its previous order, the House adjourned until tomorrow, Wednesday, July 10, 1991, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1642. A communication from the President of the United States, transmitting amendments to the fiscal year 1991 and fiscal year 1992 requests for appropriations for the Federal Emergency Management Agency, and for fiscal year 1991 for the Department of Defense, pursuant to 31 U.S.C. 1107 (H. Doc. No. 102–107); to the Committee on Appropriations and ordered to be printed.

1643. A communication from the President of the United States, transmitting two proposed rescissions, and two revised deferrals of budget authority, pursuant to 2 U.S.C. 683(a)(1) (H. Doc. No. 102–108); to the Committee on Appropriations and ordered to be printed.

1644. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9–50, "District of Columbia Public Hall Regulation Temporary Amendment Act of 1991," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

1645. A letter from the Deparment of Justice, transmitting the Department's 1990 annual report on missing children, pursuant to 42 U.S.C. 5773(a); to the Committee on Education and Labor.

1646. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1647. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize the President to transfer defense articles to member countries of the North Atlantic Treaty Organization in accord with the Treaty on Conventional Armed Forces in Europe, and for other purposes; to the Committee on Foreign Affairs.

1648. A letter from the Inspector General, Department of Labor, transmitting the semiannual report of the inspector general for the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1649. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a copy of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1650. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a copy of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1651. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a copy of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1652. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a copy of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1653. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to amend the Government Losses in Shipment Act to provide a permanent indefinite appropriation for the replacement of valuables, or the value thereof, lost, destroyed, or damaged in the course of shipment; to the Committee on Post Office and Civil Service.

1654. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to establish a new position at the Assistant Secretary level at the Department of Commerce; to the Committee on Post Office and Civil Service.

1655. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to revoke the withdrawal of certain public lands in Multnomah County, OR, to remove land from the Cibola and Havasu National Wildlife Refuges, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

1656. A letter from the Director, Office of Management and Budget, transmitting the report on the costs of domestic and international emergencies and on the threats posed by the Kuwaiti oil fires, pursuant to Public Law 102–55, chapter III (105 Stat. 293); jointly, to the Committees on Appropriations, Agriculture, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on June 26, 1991, the following report was filed on June 28, 1991]

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2507. A bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes; with an amendment (Rept. 102–136). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on June 26, 1991, the following report was filed on July 2, 1991]

Mr. CONYERS: Committee on Government Operations. Report on strengthening the export licensing system (Rept. 102–137). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on June 26, 1991, the following report was filed on July 3, 1991]

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 1096. A bill to authorize appropriations for programs, functions, and activities of the Bureau of Land Management for fiscal years 1992, 1993, 1994, and 1995; to improve the management of the public lands; and for other purposes; with an amendment (Rept. 102–138). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. Report on Bureau of Prisons halfway houses: Contracting out responsibility (Rept. 102–139). Referred to the Committee of the Whole House on the State of the Union.

[Submitted July 9, 1991]

Mr. ROSTENKOWSKI: Committee on Ways and Means. House Joint Resolution 263. Joint resolution disapproving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China (Rept. 102–140). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 2212. A bill regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes; with amend-

ments (Rept. 102–141). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. House Concurrent Resolution 174. Concurrent resolution concerning relations between the United States and the People's Republic of China (Rept. 102–142, Pt. 1). Ordered to be printed.

Mr. FASCELL: Committee on Foreign Affairs. House Concurrent Resolution 174. Concurrent resolution concerning relations between the United States and the People's Republic of China; with amendments (Rept. 102–142, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. Report on testing fraud and other Northrop improprieties in the Harrier II jet and cruise missile programs underscore need for additional procurement safeguards (Rept. 102–143). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2387. A bill to authorize appropriations for certain programs for the conservation of striped bass, and for other purposes; with an amendment (Rept. 102–144). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. House Resolution 189. Resolution providing for the consideration of a joint resolution, a bill, and a concurrent resolution relating to most-favored-nation treatment for the People's Republic of China (Rept. 102–145). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[Omitted from the Record of June 26, 1991]

By Mr. STENHOLM (for himself, Mr. SMITH of Oregon, Mr. CARPER, Ms. SNOWE, Mr. MOODY, Mr. BARTON of Texas, Mr. GIBBONS, Mr. MICHEL, Mr. VALENTINE, Mr. FISH, Mr. PAYNE of Virginia, Mr. WALKER, Mr. BROWDER, Mr. DUNCAN, Mrs. PATTERSON, Mr. GUNDERSON, Mrs. BYRON, Mr. INHOFE, Mr. RAY, Mr. EDWARDS of Oklahoma, Mr. TAYLOR of Mississippi, Mr. ALLARD, Mr. ANDERSON, Mr. ANDREWS of Texas, Mr. ANNUNZIO, Mr. ANTHONY, Mr. ARCHER, Mr. ARMEY, Mr. BACCHUS, Mr. BAKER, Mr. BALLENGER, Mr. BARNARD, Mr. BARRETT, Mr. BATEMAN, Mr. BENNETT, Mrs. BENTLEY, Mr. BEREUTER, Mr. BEVILL, Mr. BILBRAY, Mr. BILIRAKIS, Mr. BLAZ, Mr. BLILEY, Mr. BOEHLERT, Mr. BOEHNER, Mr. BREWSTER, Mr. BROOMFIELD, Mr. BRYANT, Mr. BUNNING, Mr. BURTON of Indiana, Mr. BUSTAMANTE, Mr. CALLAHAN, Mr. CAMP, Mr. CAMPBELL of Colorado, Mr. CAMPBELL of California, Mr. CHANDLER, Mr. CHAPMAN, Mr. CLEMENT, Mr. CLINGER, Mr. COBLE, Mr. COLEMAN of Missouri, Mr. COMBEST, Mr. CONDIT, Mr. COOPER, Mr. COSTELLO, Mr. COUGHLIN, Mr. COX of California, Mr. CRAMER, Mr. CRANE, Mr. CUNNINGHAM, Mr. DANNEMEYER, Mr. DARDEN, Mr. DAVIS, Mr. DEFAZIO, Mr. DELAY, Mr. DERRICK, Mr. DE LA GARZA, Mr. DICKINSON, Mr. DOOLEY, Mr. DOOLITTLE, Mr. DORGAN of North Dakota, Mr. DORNAN of California, Mr. DREIER of California, Mr. ECKART, Mr. EDWARDS of Texas, Mr. EMERSON, Mr. ENGLISH, Mr. ERDREICH, Mr. ESPY, Mr. FAWELL, Mr. FIELDS, Mr. FRANKS of Connecticut, Mr. GALLEGLY, Mr. GALLO, Mr. GEKAS, Mr. GEREN of Texas, Mr. GILCHREST, Mr. GILLMOR, Mr. GINGRICH, Mr. GOODLING, Mr. GORDON, Mr. GOSS, Mr. GRANDY, Mr. HALL of Texas, Mr. HAMMERSCHMIDT, Mr. HANCOCK, Mr. HANSEN, Mr. HARRIS, Mr. HASTERT, Mr. HATCHER, Mr. HAYES of Louisiana, Mr. HEFLEY, Mr. HEFNER, Mr. HENRY, Mr. HERGER, Mr. HOBSON, Mr. HOLLOWAY, Mr. HOPKINS, Mr. HORTON, Mr. HUBBARD, Mr. HUCKABY, Mr. HUNTER, Mr. HUTTO, Mr. HYDE, Mr. IRELAND, Mr. JACOBS, Mr. JAMES, Mr. JENKINS, Mrs. JOHNSON of Connecticut, Mr. JOHNSON of Texas, Mr. JOHNSON of South Dakota, Mr. JOHNSTON of Florida, Mr. JONES of Georgia, Mr. JONES of North Carolina, Mr. JONTZ, Mr. KASICH, Mr. KLECZKA, Mr. KLUG, Mr. KOLBE, Mr. KOLTER, Mr. KYL, Mr. LAGOMARSINO, Mr. LANCASTER, Mr. LAUGHLIN, Mr. LEACH, Mr. LENT, Mr. LEWIS of California, Mr. LEWIS of Florida, Mr. LIGHTFOOT, Mr. LIPINSKI, Mr. LIVINGTON, Mrs. LLOYD, Ms. LONG, Mr. LOWERY of California, Mr. LUKEN, Mr. MACHTLEY, Mr. MARLENEE, Mr. MARTIN, Mr. MCCANDLESS, Mr. MCCOLLUM, Mr. MCCRERY, Mr. MCCURDY, Mr. MCDADE, Mr. MCEWEN, Mr. MCGRATH, Mr. MCMILLAN of North Carolina, Mr. MCMILLEN of Maryland, Mrs. MEYERS of Kansas, Mr. MILLER of Ohio, Mr. MILLER of Washington, Ms. MOLINARI, Mr. MONTGOMERY, Mr. MOORHEAD, Mr. MORRISON, Mr. MURPHY, Mr. MYERS of Indiana, Mr. NEAL of Massachusetts, Mr. NICHOLS, Mr. NUSSLE, Mr. OLIN, Mr. ORTIZ, Mr. ORTON, Mr. OWENS of Utah, Mr. OXLEY, Mr. PACKARD, Mr. PALLONE, Mr. PARKER, Mr. PAXON, Mr. PENNY, Mr. PETERSON of Florida, Mr. PETRI, Mr. PICKLE, Mr. PORTER, Mr. POSHARD, Mr. PRICE, Mr. PURSELL, Mr. QUILLEN, Mr. RAMSTAD, Mr. RAVENEL, Mr. REGULA, Mr. RICHARDSON, Mr. RIDGE, Mr. RIGGS, Mr. RITTER, Mr. ROBERTS, Mr. ROEMER, Mr. ROGERS, Mr. ROHRABACHER, Mr. ROS-LEHTINEN, Mr. ROTH, Mr. ROWLAND, Mr. SANGMEISTER, Mr. SANTORUM, Mr. SARPALIUS, Mr. SAXTON, Mr. SCHAEFER, Mr. SCHIFF, Mr. SCHULZE, Mr. SENSENBRENNER, Mr. SHAW, Mr. SHUSTER, Mr. SISISKY, Mr. SKEEN, Mr. SKELTON, Mr. SLAUGHTER of Virginia, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. SOLOMON, Mr. SPENCE, Mr. SPRATT, Mr. STALLINGS, Mr. STEARNS, Mr. STUMP, Mr. SUNDQUIST, Mr. SWETT, Mr. TALLON, Mr. TANNER, Mr. TAUZIN, Mr. TAYLOR of North Carolina, Mr. THOMAS of Wyoming, Mr. THOMAS of Georgia, Mr. THOMAS of California, Mr. UPTON, Mr. VANDER JAGT, Mrs. VUCANOVICH, Mr. WALSH, Mr. WEBER, Mr. WELDON, Mr. WILSON, Mr. WOLF, Mr. WYLIE, Mr. YOUNG of Florida, Mr. YOUNG of Alaska, Mr. ZELIFF, and Mr. ZIMMER):

H.J. Res. 290. Joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

By Mr. PERKINS:

H.J. Res. 291. Joint resolution to designate the weeks of October 27, 1991 through November 2, 1991, and October 11, 1992 through October 17, 1992, each separately as "National Job Skills Week"; to the Committee on Post Office and Civil Service.

[Submitted July 9, 1991]

By Mr. FRANK of Massachusetts:

H.R. 2828. A bill to amend the Ethics in Government Act of 1978 to remove the limitation on the authorization of appropriations for the Office of Government Ethics; jointly, to the Committees on the Judiciary and Post Office and Civil Service.

By Mr. SWIFT:

H.R. 2829. A bill to strengthen the authority of the Federal Trade Commission regarding fraud and consumer abuse committed in connection with sales made with a telephone and for other purposes; to the Committee on Energy and Commerce.

By Ms. LONG (for herself, Mr. PENNY, Mr. ALLARD, Mr. POSHARD, Mr. JACOBS, Mr. FRANK of Massachusetts, Mr. FAWELL, Mr. DWYER of New Jersey, Mr. ROHRABACHER, Mr. TRAFICANT, Mr. SLATTERY, Ms. KAPTUR, Mr. SHAYS, Mr. HEFLEY, Mr. BLAZ, Mr. STEARNS, Mr. HARRIS, Mr. DANNEMEYER, Mr. THOMAS of Georgia, Mr. FROST, and Mr. JOHNSON of South Dakota):

H.R. 2830. A bill to ensure that whenever the annual adjustment in General Schedule pay rates is reduced or foregone, the annual pay adjustment for Members of Congress, justices and judges of the United States, and certain senior officials in the executive branch shall likewise be reduced or foregone, and for other purposes; jointly, to the Committees on Post Office and Civil Service, the Judiciary, and House Administration.

By Mr. DAVIS (for himself and Mr. CAMP):

H.R. 2831. A bill to minimize the adverse effects on local communities caused by the closure of military installations; jointly, to the Committees on Armed Services and Government Operations.

By Mr. JONES of North Carolina:

H.R. 2832. A bill to amend Public Law 97–360; to the Committee on Merchant Marine and Fisheries.

By Mr. PETRI:

H.R. 2833. A bill to permit States in certain cases to waive application of the requirements of the Commercial Motor Vehicle Safety Act of 1986 with respect to a vehicle which is being operated for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting; to the Committee on Public Works and Transportation.

By Mr. RITTER (by request):

H.R. 2834. A bill to amend the Federal Railroad Safety Act of 1970 and for other purposes; to the Committee on Energy and Commerce.

By Mr. SABO:

H.R. 2835. A bill to direct the Secretary of Transportation to conduct a program to promote and facilitate the implementation of Intelligent Vehicle-Highway Systems as a component of the Nation's surface transportation systems, and for other purposes; jointly, to the Committees on Public Works and Transportation and Science, Space, and Technology.

By Mr. SHARP (for himself, Mr. MINETA (both by request), Mr. MOORHEAD and Mr. SHUSTER):

H.R. 2836. A bill to amend the Natural Gas Pipeline Safety Act of 1968, as amended, and the Hazardous Liquid Pipeline Safety Act of

1979, as amended, to authorize appropriations for fiscal years 1992 and 1993, and for other purposes; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. STENHOLM:

H.R. 2837. A bill to amend the Agricultural Act of 1949 to improve the milk price support program and to establish a milk inventory management program to operate during calendar years in which purchases of milk and milk products by the Commodity Credit Corporation are estimated to exceed 5 billion pounds; to the Committee on Agriculture.

By Mr. WEISS (for himself, Mr. YATRON, Mr. KENNEDY, Mr. FEIGHAN, Mr. PAYNE of New Jersey, and Mr. BURTON of Indiana):

H. Con. Res. 176. Concurrent resolution expressing the sense of the Congress regarding human rights violations in the Islamic Republic of Mauritania; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

By Mr. YATRON (for himself and Mr. BEREUTER):

H. Con. Res. 177. Concurrent resolution calling for a U.S. policy of strengthening and maintaining indefinitely the current International Whaling Commission moratorium on the commercial killing of whales, and otherwise expressing the sense of the Congress with respect to conserving and protecting the world's whale, dolphin, and porpoise populations; jointly, to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

By Mr. MICHEL:

H. Res. 188. Resolution electing Representative Paxon of New York to the Committee on Budget. Considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

208. By the SPEAKER: Memorial of the General Assembly of the State of New Jersey, relative to lead content levels; to the Committee on Energy and Commerce.

209. Also, memorial of the Legislature of the State of Louisiana, relative to enactment of a POW/MIA truth bill; to the Committee on Government Operations.

210. Also, memorial of the Legislature of the State of Nebraska, relative to grazing fees; to the Committee on Interior and Insular Affairs.

211. Also, memorial of the Legislature of the State of Louisiana, relative to Christopher Columbus; to the Committee on Post Office and Civil Service.

212. Also, memorial of the General Assembly of the State of New Jersey, relative to unemployment; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 46: Mr. LANCASTER.

H.R. 53: Mr. EVANS, Mr. BENNETT, Mr. BOEHNER, Mr. FEIGHAN, Mr. HOCHBRUECKNER, Mr. LEHMAN of California, Mr. HOYER, and Mr. MURPHY.

H.R. 110: Mr. GEJDENSON.

H.R. 203: Mr. WOLPE.

H.R. 252: Mrs. SCHROEDER.

H.R. 381: Mr. ORTIZ, Mr. KLUG, Mr. GUNDERSON, Mr. BILBRAY, and Mr. BEREUTER.

H.R. 421: Mr. SMITH of Florida, and Ms. SLAUGHTER of New York.

H.R. 573: Mr. FISH and Mr. DIXON.

H.R. 576: Mr. OBERSTAR, Mr. BATEMAN, Mr. HUBBARD, Mr. DEFAZIO, Mr. MURTHA, and Mr. PALLONE.

H.R. 602: Mr. BALLENGER.

H.R. 710: Mr. HAYES of Louisiana and Mr. ENGLISH.

H.R. 776: Mr. SWETT.

H.R. 793: Mr. CONDIT, Mr. KOPETSKI, and Mr. LIPINSKI.

H.R. 814: Mr. PORTER, Mr. KANJORSKI, and Mr. DIXON.

H.R. 830: Mr. SCHEUER, Mr. JOHNSON of South Dakota, and Mr. KILDEE.

H.R. 845: Mr. BOEHNER.

H.R. 870: Mr. AUCOIN and Mr. WISE.

H.R. 871: Mr. AUCOIN and Mr. WISE.

H.R. 872: Mr. AUCOIN and Mr. WISE.

H.R. 873: Mr. AUCOIN and Mr. WISE.

H.R. 961: Mr. HEFLEY and Mr. SLATTERY.

H.R. 967: Mr. BACCHUS and Ms. NORTON.

H.R. 1048: Mr. HAYES of Illinois.

H.R. 1111: Mr. HOYER.

H.R. 1124: Mr. JONES of North Carolina and Mr. SPRATT.

H.R. 1195: Mr. LAFALCE, Mr. FALEOMAVAEGA, Mr. HORTON, Mr. SERRANO, Mr. ROGERS, Mr. ABERCROMBIE, Ms. KAPTUR, Mr. HAYES of Illinois, Mr. JEFFERSON, Mr. GEJDENSON, Mr. REED, and Mr. ESPY.

H.R. 1200: Mr. JOHNSON of South Dakota, Mr. BERMAN, Mr. DELLUMS, Mr. EDWARDS of California, Mr. CAMPBELL of Colorado, Mr. GIBBONS, Mr. DARDEN, Mr. JONES of Georgia, Mrs. MINK, Mr. JACOBS, Mr. MCCLOSKEY, Mr. MARKEY, Mr. BONIOR, Mr. LEVIN of Michigan, Mr. EMERSON, Mr. ROE, Mr. ACKERMAN, Mr. FLAKE, Ms. MOLINARI, Mr. RANGEL, Mr. SERRANO, Ms. KAPTUR, Mr. LUKEN, Mr. BORSKI, Mr. CLINGER, Mr. MACHTLEY, Mr. CLEMENT, Mr. GORDON, Mr. COLEMAN of Texas, Mr. HANSEN, Mr. SANDERS, Mr. CHANDLER, Mr. SWIFT, Mr. RAHALL, Mr. ROWLAND, Mrs. ROUKEMA, Ms. ROS-LEHTINEN, Mr. SARPALIUS, Mr. VISCLOSKY, and Mr. JENKINS.

H.R. 1288: Mr. MCCLOSKEY.

H.R. 1334: Mr. KILDEE.

H.R. 1335: Mr. OWENS of New York, Mr. KOLTER, Mr. ANNUNZIO, and Mr. MFUME.

H.R. 1385: Mr. POSHARD, Mr. VOLKMER, and Mr. FUSTER.

H.R. 1432: Mr. CALLAHAN.

H.R. 1497: Mr. BAKER and Mr. WILSON.

H.R. 1502: Mr. ERDREICH, Mr. BUSTAMANTE, Mr. KILDEE, Mr. BONIOR, Mr. CONYERS, Mr. ESPY, Mr. MFUME, Mr. SHAYS, Mr. STOKES, and Mr. HAYES of Illinois.

H.R. 1527: Mr. JEFFERSON, Mr. PENNY, and Mr. HUBBARD.

H.R. 1531: Mr. WOLF, Mr. ERDREICH, and Ms. ROS-LEHTINEN.

H.R. 1545: Mr. RAY and Mr. IRELAND.

H.R. 1601: Mr. ABERCROMBIE.

H.R. 1648: Mr. SANTORUM and Mr. GILLMOR.

H.R. 1663: Mr. SPENCE.

H.R. 1669: Mr. PERKINS, Mr. STUDDS, and Mrs. COLLINS of Michigan.

H.R. 1708: Mr. FROST, Mrs. LOWEY of New York, Mr. BRYANT, Mr. ESPY, and Mr. SCHEUER.

H.R. 1771: Mr. BACCHUS, Mr. COLEMAN of Texas, Mr. FORD of Michigan, Mr. HOYER, Mr. MCMILLEN of Maryland, Mr. NAGLE, Mr. SUNDQUIST, and Mr. WISE.

H.R. 1774: Ms. NORTON.

H.R. 1883: Mr. GILLMOR and Mr. HALL of Ohio.

H.R. 2001: Mr. BALLENGER.

H.R. 2027: Mr. EMERSON.

H.R. 2029: Mr. DWYER of New Jersey.

H.R. 2049: Mr. FIELDS.

H.R. 2070: Mr. LAGOMARSINO.

H.R. 2082: Mr. RIGGS.

H.R. 2083: Ms. NORTON, Mrs. BOXER, Mr. YATES, Mr. OBERSTAR, Mr. PERKINS, and Mr. LEHMAN of Florida.

H.R. 2089: Mr. EVANS, Mr. GILLMOR, Mr. ROE, Mr. ROGERS, and Mr. OWENS of New York.

H.R. 2115: Mr. SKAGGS, Mr. BACCHUS, and Mr. ABERCROMBIE.

H.R. 2185: Mr. RITTER, Mr. TAUZIN, Mr. INHOFE, Mr. EMERSON, Mr. DELAY, Mr. TAYLOR of North Carolina, Mr. CRANE, Mr. BUNNING, and Mr. SHUSTER.

H.R. 2188: Mr. FRANK of Massachusetts, Mr. PERKINS, Mr. JEFFERSON, Mr. FROST, Mr. EVANS, Ms. ROS-LEHTINEN, Mr. SKAGGS, and Mr. TORRES.

H.R. 2210: Mr. HUGHES, Mr. BILBRAY, and Ms. NORTON.

H.R. 2234: Mr. WEBER, Mr. BREWSTER, Mr. ESPY, and Mr. HERGER.

H.R. 2248: Mr. OBERSTAR and Mr. KOSTMAYER.

H.R. 2279: Mr. MARKEY and Mr. BEILENSON.

H.R. 2303: Mr. KOSTMAYER.

H.R. 2333: Mr. HATCHER, Ms. NORTON, Mr. FROST, Mr. TRAXLER, and Mr. LANCASTER.

H.R. 2342: Mr. SIKORSKI.

H.R. 2355: Mr. FRANK of Massachusetts, Mr. WOLPE, Mr. SMITH of Florida, Mr. BEILENSON, Ms. ROS-LEHTINEN, Mr. LANTOS, Mr. SERRANO, Mr. YATES, and Mrs. MORELLA.

H.R. 2371: Mr. YOUNG of Florida, Mr. GILLMOR, and Mr. SANTORUM.

H.R. 2440: Mr. EVANS, Mrs. COLLINS of Michigan, Mr. ESPY, Mr. TOWNS, and Mr. COSTELLO.

H.R. 2484: Mr. WEBER, Mr. POSHARD, Mr. EMERSON, Mr. HAMMERSCHMIDT, Mr. JOHNSON of South Dakota, Mr. SKEEN, and Mr. EVANS.

H.R. 2511: Mr. LEVINE of California and Mr. ECKART.

H.R. 2540: Mr. ANNUNZIO, Mr. WOLPE, Mr. LANTOS, and Mr. JONTZ.

H.R. 2541: Mr. LANTOS, Mr. WELDON, Mr. JONES of North Carolina, and Mr. GILCHREST.

H.R. 2559: Mr. FRANK of Massachusetts, Mr. ACKERMAN, Mr. WOLPE, Mr. SMITH of Florida, Mr. BEILENSON, Ms. ROS-LEHTINEN, Mr. LANTOS, Mr. SERRANO, and Mr. YATES.

H.R. 2560: Mr. HAMILTON and Mr. LIGHTFOOT.

H.R. 2566: Mr. MONTGOMERY, Mr. BATEMAN, Mr. OLIN, Mr. FROST, Mr. THOMAS of Georgia, Mr. SISISKY, Mr. HAMILTON, Mr. BURTON of Indiana, Mr. SYNAR, Mr. JONTZ, Mr. NEAL of North Carolina, and Mr. WILSON.

H.R. 2567: Mr. KILDEE.

H.R. 2579: Mr. HERGER.

H.R. 2584: Mr. ANDREWS of Maine and Mr. SCHEUER.

H.R. 2620: Mr. RITTER.

H.R. 2632: Mr. BURTON of Indiana, Ms. KAPTUR, and Mr. STALLINGS.

H.R. 2670: Mr. WASHINGTON and Mr. JONTZ.

H.R. 2786: Mr. SCHIFF, Mr. BOEHLERT, and Mr. HORTON.

H.J. Res. 67: Mr. PETERSON of Florida.

H.J. Res. 107: Mr. MCMILLEN of Maryland, Mr. HORTON, Mr. DWYER of New Jersey, Mr. SERRANO, Ms. KAPTUR, Mr. ZELIFF, Ms. NORTON, Mr. LIGHTFOOT, Mr. ABERCROMBIE, Mr. ROEMER, and Mr. FROST.

H.J. Res. 180: Mr. BORSKI, Mr. EVANS, Mr. GILLMOR, Mr. MANTON, Mr. MURTHA, Mr. MCEWEN, Mr. ROEMER, and Mr. SCHAEFER.

H.J. Res. 188: Mr. FROST.

H.J. Res. 217: Mr. COOPER, Mr. MCCANDLESS, Mr. NOWAK, Mr. FORD of Michigan, Mr. GALLEGLY, Mr. GALLO, Mr. WISE, Mr. MATSUI, Mr. BROWN, Mr. HALL of Ohio, Mr. NEAL of North Carolina, Mr. HAYES of Illinois, Mr. BALLENGER, Mr. MCGRATH, Mr. TALLON, Mr.

PURSELL, Mr. HOCHBRUECKNER, Mr. OWENS of Utah, Mr. KANJORSKI, Mr. ASPIN, Mr. RIGGS, Mr. DANNEMEYER, Mr. PAYNE of Virginia, Mr. DUNCAN, Mr. FROST, Mr. SKEEN, Mr. PACKARD, Mr. YATRON, Mr. WYLIE, Mr. TRAXLER, Mr. SHARP, Mr. RHODES, Mr. KASICH, Ms. OAKAR, Mr. ARCHER, Mr. COUGHLIN, and Mrs. MORELLA.

H.J. Res. 244: Mr. BEILENSON, Mr. BRYANT, Mr. CLEMENT, Mrs. COLLINS of Illinois, Mr. DYMALLY, Mr. FROST, Mr. GONZALEZ, Mr. GUARINI, Mrs. JOHNSON of Connecticut, Mr. KENNEDY, Mr. KILDEE, Mr. MCGRATH, Mr. MCNULTY, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. RANGEL, Mr. SKEEN, Mr. SLATTERY, and Mr. TOWNS.

H.J. Res. 263: Mr. FROST, Mr. EVANS, Mr. SKAGGS, Ms. ROS-LEHTINEN, Mr. TORRES, and Mr. BARTON of Texas.

H.J. Res. 264: Mr. HALL of Ohio, Mr. KOSTMAYER, Mr. WALSH, Mr. LANCASTER, Mr. FROST, Mr. KENNEDY, and Mr. GORDON.

H.J. Res. 270: Mr. SCHUMER, Mr. KLECZKA, and Mr. DURBIN.

H.J. Res. 273: Mr. BURTON of Indiana, Mr. JACOBS, Mr. JONTZ, Ms. LONG, Mr. MCCLOSKEY, Mr. MYERS of Indiana, Mr. ROEMER, Mr. SHARP, and Mr. VISCLOSKY.

H. Con. Res. 160: Mr. JONTZ, Mr. LEVINE of California, Mr. FROST, Mr. SANDERS, Mr. GEJDENSON, Mr. DIXON, Mr. MARKEY, Mr. OWENS of New York, Mr. ESPY, Mr. MFUME Mr. YATES, Mr. TOWNS, Mr. FORD of Tennessee, and Ms. NORTON.

H. Con. Res. 168: Mr. HALL of Ohio, Mr. DELLUMS, Mrs. PATTERSON, Mr. DYMALLY, Mr. HUGHES, Mr. HORTON, Mr. MCDERMOTT, Mr. FUSTER, Mr. MATSUI, Mr. ABERCROMBIE, Mr. BONIOR, Mr. RAHALL, Mr. RANGEL, and Mr. JOHNSON of South Dakota.

H. Res. 40: Mrs. ROUKEMA.

H. Res. 42: Mr. JOHNSON of South Dakota.

H. Res. 115: Mr. BARNARD, Mr. GEJDENSON, Mr. REED, Mr. MARKEY, Mr. DOOLEY, Mr. SHARP, Mr. FROST, Mr. DWYER of New Jersey, Mrs. MORELLA, Mr. HALL of Ohio, Mr. SMITH of Florida, Mr. WASHINGTON, and Mr. ROE.

H. Res. 164: Mr. ESPY, Mr. ACKERMAN, Mr. FRANK of Massachusetts, Mr. FUSTER, Mr. OWENS of Utah, Mr. RANGEL, Ms. NORTON, Mr. FROST, and Mr. TOWNS.

H. Res. 167: Mr. MRAZEK, Mrs. BOXER, Mrs. PATTERSON, Mr. SHUSTER, Mr. FALEOMAVAEGA, Mr. GEJDENSON, Mr. FASCELL, Mr. FAZIO, and Mr. LAGOMARSINO.

H. Res. 168: Mr. FORD of Tennessee and Ms. KAPTUR.

H. Res. 184: Mr. BATEMAN, Mr. DORNAN of California, Mr. SPENCE, Mr. BILIRAKIS, Mr. MONTGOMERY, Mr. QUILLEN, Mrs. MEYERS of Kansas, Mr. HARRIS, Mr. DANNEMEYER, Mr. GILMAN, Mr. FASCELL, Mr. RANGEL, Mr. MCNULTY, Mr. ESPY, Mrs. BYRON, Mr. SKEEN, Mr. JENKINS, Mr. BALLENGER, and Mr. GUNDERSON.

SENATE—*Tuesday, July 9, 1991*

(Legislative day of Monday, July 8, 1991)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable PAUL D. WELLSTONE, a Senator from the State of Minnesota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Ye shall know the truth, and the truth shall make you free.—John 8:32.

Eternal God, perfect in truth and justice, we pray this morning for the members of the Senate press and media. We thank You for their hard work and their commitment to keep the people informed. We realize that much of the people's knowledge and most of the information, good or bad, they receive comes through their labors which are indispensable to a free society. Thank You for their patience during barren periods when nothing newsworthy is happening, and the public expects them to produce anyway. Thank You for their courage when an assignment involves great risk.

Grant to them special grace when criticism, which comes so often and so easily, is unjust, and they simply have to take it. We pray for their families who sometimes must suffer their long absences from home when duty requires it. Thank You, Father, for the men and women of the Senate press and media. Bless them, assure them of Your love and ours, and encourage them when they are tempted to give up.

We ask this in His name who was truth incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 9, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL D. WELLSTONE, a Senator from the State of Minnesota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WELLSTONE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, under a unanimous-consent agreement reached last evening, there will now be 30 minutes for debate on a Thurmond second-degree amendment to the Bingaman amendment, and a vote on that Thurmond amendment will occur at or shortly after 10 a.m. There will then be a series of other amendments as prescribed in the agreement, and then we will be proceeding to further consideration of the bill once the Bingaman amendment is ultimately accepted or rejected.

Senators should expect rollcall votes throughout the day beginning, as I previously stated, at about 10 a.m. as the managers, who deserve our gratitude and commendation for their perseverance, Senators BIDEN and THURMOND, continue to move forward in an effort to complete action on this measure.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Mr. President, I will be pleased to yield to the distinguished Republican leader.

Mr. DOLE. I am sorry I was not here earlier, but as I understand, the majority leader has made it clear there will be a lot of votes today into the evening and everybody ought to be on notice. The same is true for the remainder of the week.

Mr. MITCHELL. Mr. President, that is correct.

Mr. DOLE. Including Monday of next week. I think we need to continue to make that statement because some of our colleagues are not quite certain, although I think they might have discovered yesterday, that there will be votes on Monday.

Mr. MITCHELL. Yes, there will be.

Mr. DOLE. With the exception of this Friday, I think votes on the following Friday.

Mr. MITCHELL. That is correct. Mr. President, the Senate will not be in session this Friday, but thereafter for the remainder of this legislative period there will be votes on Mondays and Fridays, as we attempt to move forward to complete the business of the Senate.

I might note, with the distinguished Republican leader present, all Senators should be aware that a cloture motion on the bill was filed last evening, and therefore under the rule Senators have until 1 p.m. today to file amendments. Senators should be aware of that and be prepared to complete action on this bill as soon as possible. It is my hope—and I know the managers hope this very much; we discussed this last evening—that we complete action today, although it would require a lengthy session. I hope that we are going to be able to get that done. But in the event we are not, a cloture motion has been filed which will ripen for a vote tomorrow.

Mr. President, I thank my colleagues.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

ARMS CONTROL

Mr. DOLE. Mr. President, with all of the activity surrounding START and CFE—especially over the past few months—some of our other arms control efforts are sometimes overshadowed. Yet, every now and then, it is worthwhile to pause and look at what our negotiators are trying to do, especially when we in the Congress face decisions in their subject area.

This year we have some important decisions to make on ballistic missile defense. Therefore, I think we should examine what is going on in the United States-Soviet defense and space talks [DST] in Geneva.

Last Tuesday, our chief negotiator, Ambassador Dave Smith, outlined the status of DST for the Conference on Disarmament. He is optimistic, particularly in light of the Bush-Gorbachev agreement to continue DST without delay after START is concluded.

I would like to share with you two insights from Ambassador Smith's speech which, in my view, are relevant to our deliberations here in the Senate.

First, the ABM Treaty was written in another era, when its drafters—Soviet and American—could not foresee a

world in which a Saddam Hussein possesses ballistic missiles.

Deploying any meaningful defense—whether it is President Bush's GPALS or some of the other plans conceived in the Congress—will require substantial changes to the ABM Treaty. None will be easily negotiated, nevertheless our Ambassador is optimistic and we need to back him the best way we can.

Second, in an era of improved United States-Soviet relations, despite some setbacks and doubts, nobody is talking about ABM Treaty abrogation. The Bush administration is working for a negotiated solution. For this reason, Ambassador Smith points out:

We have been engaged in the defense and space talks for 6 years and remain committed to their future.

In the coming weeks, as we decide how to proceed on the critical issue of ballistic missile defenses, let us bear in mind the true reality of the prospects for the defense and space talks.

I commend Ambassador Smith's speech to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT TO THE OUTER SPACE COMMITTEE OF THE CONFERENCE ON DISARMAMENT, JUNE 25, 1991

(By Ambassador David J. Smith)

Mr. Chairman:

I

When I last had the privilege of addressing the Conference on Disarmament on the status of the Defense and Space Talks, I began by stressing President George Bush's words of February 7, 1990: "In the 1990s, strategic defenses make more sense than ever before." I begin this way again today because so many of the events of the sixteen months since those words were spoken have proven them all the more valid.

The President was speaking at the midpoint of a two-year review of the U.S. Strategic Defense Initiative (SDI) at a time when many rapid changes were occurring in the world. These changes diminished our concern over the possibility of a strategic first strike with ballistic missiles against the United States relative to our growing concern over ballistic missile proliferation and accidental or unauthorized launches. Therefore, in his January 29, 1991, State of the Union Address, President Bush ordered a redirection of the SDI program to "protection from limited ballistic missile strikes, whatever their source."

Though backed by two years of study which when began long before anyone imagined there would be a Persian Gulf War, the President's announcement could not be heard but through the thunder of the War. From that perspective, the results of our study and the President's decision were prescient.

President Bush recently summed it all up in a few sentences addressed to the graduating class of the U.S. Air Force Academy on May 29, 1991:

"We learned that missile defense works and that it promotes peace and security. In the Gulf we had the technologies of defense to pick up where theories of deterrence left off. The Patriot saved lives and helped keep the coalition together.

"And while the Patriot worked well in the Gulf, we must prepare for the missiles more likely to be used by future aggressors. We cannot build a defense system that simply responds to the threats of the past."

II

Despite the overwhelming military force marshalled to enforce U.N. Resolutions, notions of deterrence prevented neither the tragic war in the Gulf from starting nor ballistic missiles from being launched. SCUD missiles were fired in the opening days of conflict and targeted at civilian populations. Patriot interceptors defended troops and civilians, and greatly lessened the political terror that the SCUD attacks were designed to spread. The Patriot proved instrumental in containing the conflict, maintaining the international coalition, and possibly shortening the war. And let us not forget the most simple and important fact: the Patriot saved lives.

Yet, had these SCUD missiles been mated with chemical or nuclear warheads, the short-range Patriots could not have intercepted their targets far enough from civilian populations to provide the necessary defense. Far greater human tragedy would have occurred. Further, the SCUD is an old ballistic missile; far more capable missiles have already been developed.

The Patriot originally was designed as a point air defense weapon; it does not have the range, speed and maneuverability to intercept more capable, advanced types of ballistic missiles. Its success proved that defensive technology is feasible, but advanced interceptors, much more capable than the Patriot, are required to meet future crises that will involve ever more advanced missile threats.

According to Secretary of Defense Dick Cheney, by the year 2000, in addition to the United States and Soviet Union, more than two dozen countries will have ballistic missiles; fifteen of these countries will have the technical capabilities to produce their own missiles; half of these countries will have, or will be developing, nuclear capability. By 2000, thirty countries will have chemical weapons; ten will be able to field biological weapons. Many of these countries will have ballistic missiles of various ranges; a few could achieve strategic range. In addition, as we saw in the Gulf War, ballistic missiles can be improved to add to their ranges and capabilities.

Such an environment can only be met with a broad, comprehensive strategy which includes political and diplomatic measures as well as defenses. The United States is dedicated to strengthening and expanding the Missile Technology Control Regime and the Non-Proliferation Treaty, supporting the work of the Australia Group and advancing President Bush's Middle East arms control proposal. With dedication from all of us, we can expect to build upon the successes these efforts have already achieved. Still, experience and common sense suggest that these efforts alone cannot stop all proliferation. The introduction of modest, effective defenses will complement the MTCR and other diplomatic efforts to deter missile proliferation.

III

America's new approach to ballistic missile defense, announced by President Bush on January 29, is called Global Protection Against Limited Strikes (GPALS). Half the size of the original SDI "Phase I" plan, the GPALS architecture shifts the focus of strategic ballistic missile defense away from deterrence of a strategic ballistic missile attack to protection against the emerging and limited ballistic missile threat. Because it is limited in scope and scale, GPALS will not threaten the Soviet strategic retaliatory capability, an oft-stated Soviet concern over SDI. Therefore, given improving U.S.-Soviet relations and growing concern for ballistic missile proliferation and accidental and unauthorized launch, GPALS represents an appropriate approach to defenses based on the evolving international environment.

A GPALS defense would include various sensors and three ground- and space-based intercepters to ensure global coverage against missiles of all ranges:

Space- and surface-based sensors to provide global, continuous surveillance and tracking, from launch to intercept, of ballistic missiles of all ranges—theater to strategic. This is a crucial element for a successful global defense.

Surface-based, nonnuclear, transportable, kinetic interceptors to protect U.S. forces deployed abroad and U.S. allies and friends against ballistic missiles of theater range.

Space-based, nonnuclear, kinetic interceptors to provide continuous, global interception capability against missiles with ranges in excess of 500–1000 km (300–600 miles). Thus, the space-based element will protect the U.S., allies and friends against both theater and strategic missiles and will provide the broadest, most effective global coverage.

Finally, surface-based, nonnuclear, kinetic interceptors located in the U.S. to protect the U.S. from ballistic missiles of all ranges.

IV

Any meaningful deployment of ballistic missile defenses will require a change in the legal regime established by the ABM Treaty. Therefore, although the world has changed, and our Program adjusted accordingly, our goal in the Defense and Space Talks remains consistent. We seek to negotiate a cooperative transition to allow increased reliance on strategic ballistic missile defenses.

Over the six year history of our Talks, we have explained to our Soviet colleagues that, despite the best of intentions, the ABM Treaty did not yield the stability nor the reductions in strategic offensive arms its framers intended. It is not the ABM Treaty but the improved relationship between the United States and the Soviet Union that is about to bring us the first ever agreement for stabilizing reductions in strategic offensive forces. Deployment of strategic defenses would further enhance stability. We believe this argument is, and will remain, valid.

We also continue to believe that, in concert with reductions in strategic offensive arms, effective defenses would greatly reduce any strategic benefits a side might obtain by cheating on international arms reductions agreements. Defenses would help deter the proliferation of ballistic missile technology and devalue the potential political and military leverage of ballistic missiles—long thought to be the terror weapons of choice.

The proliferation of ballistic missile technology, underscored by the lessons learned from the Gulf War, confirms our conclusion that the regime established by the ABM Treaty must be changed. Positive changes in U.S.-Soviet relations, the need to address a truly mutual concern, and a U.S. ballistic missile defense program which averts stated Soviet concerns may now provide a real opportunity for success in our negotiations. I stress that a negotiated cooperative transition is our goal. This is why we have been en-

gaged in the Defense and Space Talks for six years and remain committed to their future.

V

The United States continues to offer a mechanism, the U.S. Defense and Space Treaty, to permit deployment of defenses beyond the ABM Treaty following three years discussion of specific measures for implementing a cooperative transition. Such a process of negotiation and discussion of concrete measures is far preferable to withdrawal from the ABM Treaty under the supreme interests provision found in Article XV of that Treaty. The U.S. approach is measured, reasonable and appropriate.

We also understand full well that the negotiated cooperative transition we seek cannot be built in a vacuum but requires a sound foundation of trust. Therefore, another U.S. approach in the Defense and Space Talks is ensuring predictability in the development of the U.S.-Soviet strategic relationship which has up to now been characterized by secrecy. In contrast, openness makes the strategic relationship predictable, averting miscalculation and technological surprise, and thus is stabilizing.

To encourage openness, the United States has proposed a number of predictability measures designed to create a better understanding of strategic ballistic missile defense activities as early as the research stage—years before the appearance of advanced defenses in the field. These U.S. measures include annual exchanges of data, meetings of experts, briefings, visits to laboratories, observations of tests, and ABM test satellite notifications.

As a demonstration of the U.S. approach and commitment to openness, at the Wyoming Ministerial in September 1989, Secretary of State Baker invited a group of Soviet experts to visit two U.S. laboratories conducting SDI research. In December 1989, ten Soviet experts visited the Alpha Chemical Laser at the TRW facility at San Juan Capistrano, California, and the BEAR Neutral Particle Beam Experiment at the Los Alamos National Laboratory, New Mexico. The Soviet guests saw hardware up close and had an opportunity to ask questions of U.S. scientists conducting the research.

To continue the momentum, Secretary Baker took further initiatives. In the spring of 1990, the United States proposed that the U.S. and Soviet Union conclude a free-standing executive agreement on these matters. Later in 1990, the U.S. proposed pilot implementation of U.S. predictability measures—a "trial run." And last Fall, the U.S. proposed that the two sides conduct "dual pilot implementation"—the United States would demonstrate its proposed predictability measures, and the Soviet Union would demonstrate its measures.

The United States remains committed to reciprocal openness in this area which we believe would be inherently stabilizing, consistent with the developing trends in U.S.-Soviet relations. We also believe that early conclusion of a free-standing predictability measures agreement would afford us the opportunity to build greater trust upon which we could construct even greater successes in the Defense and Space Talks.

VI

With the proliferation of ballistic missile technology growing near Soviet Borders, and with our GPALS plan, the United States believes Soviet attitudes should evolve to permit defenses against mutual concerns. Although to date there has been no shift in the official Soviet position on the deployment of defenses beyond the narrow limits of the ABM Treaty, we continue to see evidence of an internal Soviet discussion over the role of ballistic missile defenses. In addition, missile defense is more consistent with the new Soviet emphasis on "defensive doctrine." Thus, incentives exist for the Soviets to join with us to explore constructive measures to counter emerging threats.

The changes in the international environment, the lessons learned from the Gulf War, the improvement in U.S.-Soviet relations, and the shift to a defensive doctrine in the Soviet Union all should encourage our Soviet colleagues to consider relaxation of ABM Treaty constraints to meet mutual concerns.

There is considerable reason for optimism in the Defense and Space Talks. Here in Geneva, following the signing of the START Treaty, Presidents Bush and Gorbachev, in their June 1990 Washington Joint Summit Statement, committed the U.S. and USSR to seek an "appropriate relationship between strategic offenses and defenses." This is a good sign. Soon, the United States and the Soviet Union will begin to construct this new regime that could permit greater reliance on defenses. This commitment should enable the sides to build upon improving relations and achieve success in future Defense and Space Talks to deal cooperatively with the evolving international environment.

I hope to report great success to you the next time we meet. Thank you.

NOMINATION OF CLARENCE THOMAS

Mr. DOLE. Mr. President, there will be a lot of attention focused on the nomination of Clarence Thomas to be a Justice of the U.S. Supreme Court.

I had met Judge Thomas before, but again on yesterday many of us had an opportunity to have a brief meeting with the nominee and discuss strategy, if you will, or at least discuss how to proceed. I understand he will be meeting this morning with the distinguished chairman of the Judiciary Committee and the distinguished ranking Republican member of that committee, Senator THURMOND.

Mr. President, as the grandson of a sharecropper in the segregated South, the young Clarence Thomas was constantly reminded that the American dream was a white man's dream—never to be realized, never to be shared, by those Americans whose skin happened to be a different color.

Despite a childhood of poverty and Jim Crow, Clarence Thomas rejected the easy path of resignation, relentlessly pursuing—instead—the more difficult road of hard work and a commitment to excellence.

As an assistant attorney general for the State of Missouri, as Chairman of the Equal Employment Opportunity Commission, and, now, as a distinguished member of the D.C. Court of Appeals, Clarence Thomas has indeed compiled an impressive record of public service achievement.

This record speaks for itself, and in fact, has been praised by none other than the Washington Post, which has cited Clarence Thomas' "quiet but persistent leadership" of the EEOC.

DON'T POLITICIZE THE CONFIRMATION PROCESS

Unfortunately, Mr. President, some of the politically correct litmus-testers here in Washington want to deny the fulfillment of Clarence Thomas' all-American dream, not because he lacks the talent or the drive, but because he is a successful black man who also happens to be a Republican and a conservative.

Before his confirmation hearings even begin, these litmus-testers would expect Judge Thomas to go beyond explanations of judicial or legal philosophy and answer specific questions about specific cases that may come before him as a sitting member of the Supreme Court sometime in the future.

If the answers are not the correct ones, if Judge Thomas does not mark the right box, then he should not be confirmed—or so the reasoning goes.

Needless to say, this litmus-test approach has been rejected by anyone who is serious about maintaining the independence of the Federal judiciary.

As former Chief Justice Warren Burger recently cautioned, and I quote:

> No nominee worthy of confirmation will allow his or her position to become fixed before the issues are fully defined * * * before the Supreme Court with all the nuances that accompany a constitutional case. Presidents and legislators have always had platforms and agendas, but for judges the only agenda should be the Constitution and laws agreeable with the Constitution.

Mr. President, the Senate should heed the former Chief Justice's advice and resist the temptation of transforming Federal judges into politicians.

Federal judges should judge only from the Federal bench.

They should not, and must not, prejudge cases from the bench of a Senate confirmation hearing.

Clarence Thomas understands this, but he also understands real-life people with real-life problems.

He will be a people's Justice, committed to the rule of law, but equally committed to the cause of justice for all Americans.

Mr. President, Clarence Thomas has succeeded in putting Pinpoint, GA, on the map.

And I have no doubt that he will leave his mark on the Supreme Court when confirmed by the U.S. Senate, the sooner, the better.

RESERVATION OF REPUBLICAN LEADER TIME

Mr. DOLE. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, the leader's time is reserved.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of S. 1241 which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1241) to control and reduce violent crime.

The Senate resumed consideration of the bill.

Pending:

Bingaman amendment No. 517, to authorize funds to assist States in establishing and administering mandatory functional literacy programs for prisoners.

(2) Thurmond amendment No. 518 (to amendment No. 517), in the nature of a substitute.

Mr. THURMOND. Mr. President, I yield 3 minutes to the able Senator from Wyoming to speak on this subject.

AMENDMENT NO. 518 TO AMENDMENT NO. 517

The ACTING PRESIDENT pro tempore. There will now be 30 minutes of debate equally divided on the Thurmond amendment No. 518 to the Bingaman amendment No. 517.

The Senator from Wyoming is recognized.

Mr. SIMPSON. Thank you Mr. President. Mr. President, I commend the Senator from New Mexico for trying to make certain that the concept of rehabilitation really does mean something. I think his motives are good. However, I must also say, Mr. President, that my dear friend and colleague, the Senator from South Carolina, raised a number of good points as has my able friend from Utah, Senator HATCH.

This amendment simply allows the States a little bit of discretion in determining for themselves how to implement education programs. Small States such as mine, the State of Wyoming, simply do not have a pot of money they can reach into to implement these grand programs. The underlying amendment by the Senator from New Mexico indeed mandates compliance.

In a sense we are obviously federalizing the way in which the States provide their educational services to prisoners. We only promise to help them financially. This is only an authorization in this bill. We really have not spent a dime and do not know if we will, even though I think indeed we should with regard to the literacy program.

At the same time we are directing the States not only to spend money they may not have, we are telling them that if they do not dive into that pot of money that we will take away some of the Federal assistance we may be providing to them already, which is a critical, I think, defect.

Why do we in a sense then punish policemen or law enforcement generally and everyone else in the State justice systems in order to force them to do something they simply may not be able to afford.

So, Mr. President, I do not think that is right. I urge my colleagues to support this second-degree amendment offered by the Senator from South Carolina. We should be leading by setting an example at the Federal level and not by the use of a club. I do indeed believe I understand fully what the Senator from New Mexico is doing, and more importantly, after practicing law for 18 years and dealing many times with the public, and a public defender, I saw so many times that literacy itself is the key to any future success, the ability to read and write. Since one has a little time on his or her hands in these remarkable institutions, it seems to me that the theme is very good. I just have difficulty with mandating provisions other than the carrot and the stick approach.

I thank the chair.

The ACTING PRESIDENT pro tempore. Who yield time?

Mr. BINGAMAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I yield myself 5 minutes of the time allotted to me.

First, let me commend the Senator from South Carolina for acknowledging in his amendment the importance of doing something in this area. I do think that there is a recognition that we should move ahead in literacy training here. I do not agree with the Senator from South Carolina in his choice of how to move ahead, but for the first time in this crime bill, we have at least a recognition under this amendment that there is an importance to be attached to this kind of an effort in reducing crime. And that is the main purpose.

I also want to, for the record, correct a statement which I made last evening in the debate, where I indicated that it was my belief that the Senator from South Carolina and the Senator from Utah had both supported, essentially, the same provision that my amendment contained in S. 2, when that bill came out of the Labor and Human Resources Committee. I was in error in that statement. They did not support that, I am informed. In fact, they voted against it. But that bill still was reported by the Labor and Human Resources Committee, and essentially the same legislation has passed the House, as I indicated last evening.

The only point I make is that the distinction between the two proposals before the Senate is very clear. My bill would direct the States to pursue this, would give them 5 years in which to do it, and would give them substantial discretion in how they pursued it and the nature of the program they set up, but still would give the U.S. Attorney General authority to step in and withhold funds, if he did not believe they were in fact going forward, as the Congress would direct in my amendment.

The Senator from South Carolina, on the other hand, says that we will support these efforts at the State level, but it is purely discretionary, it is up to the States whether they decide to do this. Each State will make up its own mind.

Mr. President, I think that is a good issue to be before the Senate. Are we serious about wanting to move in this direction, or are we not? Are we in fact going to put some teeth in a provision in the law here, or are we not?

Literacy and education are subjects that all politicians love to support, especially at the Federal level. At the Federal level there is very little downside in supporting efforts to improve education or improve literacy because, generally, it is recognized and acknowledged that it is a State and local problem, and the States and the localities really have to deal with them.

I am suggesting here that the Federal Government should take some responsibility and step in and commit money to it, should require that it be done, should give plenty of leeway—we are talking about a 5-year lead time—to put in place these programs. I think it is important that we go ahead and direct that this action be taken.

I ask those who support the amendment of the Senator from South Carolina whether we believe that the Governors and the President were intending that our education goals be discretionary, when the President and the Governors said that one of our education goals was to ensure that every adult American be literate by the year 2000; was that intended to be discretionary, as to each State? Was it the national intent, was it the President's intent, that only those States that really agreed with that should pursue that goal?

I do not believe so. I thought these were national goals that we were committed to pursue. And, really, through the legislation which I have offered, I believe we are making or would make a significant step toward achieving the goal, particularly goal No. 5. The amendment by the Senator from South Carolina eliminates any requirement that anything be done. Accordingly, I have to resist it. And I hope the Senate will defeat the amendment that has been offered.

I yield the floor and reserve the remainder of my time.

Mr. THURMOND addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, shortly, the Senate will vote on the Thurmond second-degree amendment to the Bingaman amendment. The issue before the Senate is not whether the Senate supports prison literacy programs. Both the Bingaman and Thurmond amendments establish prison literacy programs. Rather, the issue before the Senate is should the Federal Government mandate that the States institute literacy programs for all inmates? The Bingaman amendment imposes a prison literacy requirement upon all State prison systems. It requires that the States establish a mandatory literacy program in virtually every prison, jail, and detention center. My amendment, on the other hand, rather than imposing this burden upon the States and penalizing them for not acting, encourages the States to set up such a program.

I would like to address some of the points raised by my colleague from New Mexico. Yesterday, he asserted that Senator HATCH and I voted in favor of this proposal as part of S. 2—the literacy bill—when the Labor Committee marked up the measure. In fact, Senator HATCH and I both voted against S. 2.

Mr. President, Senator BINGAMAN has argued that the Senate has preempted the States in other parts of this crime bill. Specifically, he cited two amendments offered by Senator D'AMATO which enhanced the Federal penalties for firearms related offenses and authorized the death penalty for murders committed with a firearm. He stated that these amendments forced the States to adopt such penalties. However, these amendments did not force the States to change their laws. They simply expanded Federal jurisdiction to permit prosecution in Federal courts in specific cases where the States wish to defer to Federal authorities. In fact, both amendments contain language which makes clear that this expanded authority "shall be used to supplement" and "not supplant the efforts of State and local prosecutors." Simply stated, these amendments do not force the States to adopt minimum mandatory sentences or the death penalty, as my colleague has argued.

Mr. President, it is no secret that State correctional systems are financially strapped. Many have an insufficient number of prison cells and are forced to release prisoners prematurely in order to comply with Federal court orders. As Senator BIDEN noted yesterday, approximately two-thirds of the States are under Federal court order to limit the number of prisoners in their facilities. At a time when so many States are being pushed to the limit in their efforts to fight crime by building needed additional prison space, should Congress mandate that they spend their limited dollars on prison literacy programs? The answer is no. The States will still be required to establish these programs even if only half the money authorized under this amendment is appropriated. Every Senator here knows that the odds of this program being fully funded are slim. Yet, failure to implement these literacy programs will result in a loss of Department of Justice grants.

The Bingaman measure would require the States to make use of advanced technologies such as interactive video and computer-based literacy learning. The Bingaman amendment forces the States to spend their limited dollars on teaching rapists and murderers rather than children. The amendment also urges the States to pay these convicted criminals to learn. This is inappropriate. Such a program may be inconsistent with State priorities as well as proven literacy programs already in place.

Mr. President, my amendment will authorize the same funding levels contained in the Bingaman legislation. However, my amendment makes clear that this program is discretionary and gives the States greater flexibility.

In closing, I agree with my colleague from New Mexico that education is a valuable tool in crime prevention. However, the Federal Government should not force upon the States unrealistic and costly requirements which will add to their already burdened criminal justice systems. Congress should not be imposing these literacy programs upon the States while they are struggling to comply with Federal prison cap orders. Rather, Congress should encourage the States to adopt realistic programs which ensure that funds are spent where most needed.

For these reasons, I urge my colleagues to support the Thurmond amendment.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. THURMOND. Mr. President, I yield 5 minutes to the distinguished Senator from Utah.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, the distinguished Senator from South Carolina has spoken very well on this issue. As I said yesterday, I commend the distinguished Senator from New Mexico for his desire to bring literacy training to all prisoners in State and local prisons, jails, and detention centers. Frankly, it is a great desire of all of us. The problem is—where do you get the funds to do it?

Second, the thing I find most objectionable about his amendment is he is again coming up with a Federal mandate that is imposed upon all the States at a time when the States cannot meet their budgetary requirements. Most Governors, if not all Governors, are having tremendous difficulties meeting the budgetary needs of their State and almost every one of them will say that he or she does not have the money to meet the educational needs of the children of the State.

Yet we are going to mandate on the backs of the States an august, very costly program that they have to comply with for prisoners. It is a worthy goal but I think sometimes we have to make priority choices.

The distinguished Senator from South Carolina has filed an amendment that basically would make this a grant program to the States, and help the States, but not make them, provide this training. Actually, the Thurmond amendment establishes a discretionary grant program under the Department of Justice which makes funds available to the States for the purpose of establishing statewide or demonstration prison literacy programs. Rather than forcing or mandating the States to implement prison literacy programs, as the Bingaman amendment does, the Thurmond amendment makes it very clear that these programs are discretionary in the States, allows States to make their own priority choices, and does not mandate these programs.

The Bingaman amendment goes even further. If the States do not comply with the mandated aspects of his amendment—and there they are all mandated—then his amendment penalizes the States by withholding Federal funds for prisoners if the States fail to implement such a program.

Many States are a little gun shy of taking another mandate from the Federal Government that may or may not be funded in the future. As I look at the legislation he authorizes it at $10 million the first year; $15 million, $20 million, and $25 million in subsequent years but none of those funds are going to cover the cost of the literacy programs for all prisoners in the States as required by this amendment. So States will have to meet the costs of these programs from their own funds.

Mr. President, there comes a time when all of us facing $270 billion deficits and a $3 trillion national debt have to agree that we can no longer tell the States what they have to do. We can no longer mandate on their backs things that have to be done. If we are going to do it, we ought to at least give them the funds to be able to do it. I believe $20 million or $40 million is not enough for them to do what they are required to do. I believe $100 million will not meet the needs of the States in order to do the things that the distinguished Senator from New Mexico's amendment requires of them.

Why are we mandating anything on the backs of the States? If anything, over the last 10 or 15 years we have been placing onerous burdens on States

and taking away Federal funds because we cannot meet our own budgetary needs.

I commend the distinguished Senator from New Mexico for his compassionate instincts in wanting to help those in prison who are not literate. I understand that. I have the same compassionate feelings, but I will tell you one thing—if I have to choose between those who are convicted of willful and heinous crimes receiving literacy training and the young kids in the individual States who are currently suffering because we do not have enough funds to do the educational work that needs to be done in the State, I am going to choose the kids every time. That is really the question: Are we going to take care of the kids who do not have a properly funded education or are we going to start pouring new moneys into a program, though worthy, altruistic and compassionate, that really will take the money from the kids?

I do not see why this is a Democrat or Republican issue. This is an issue of common sense. If we reach the point where we can afford to help the States fund literacy programs for prisoners, let us do it, but let us do it when we can pay the costs and not mandate it on the backs of the States who cannot. I do not know of one State in this Union who can meet these mandates if the moneys are not there. They just cannot pull more money out of thin air and none of them have enough to fund educational programs as it is.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BINGAMAN. Mr. President, how much time remains on my side and on the other side?

The ACTING PRESIDENT pro tempore. Ten minutes.

Mr. BINGAMAN. Mr. President, I yield myself 5 additional minutes.

Mr. President, I would just say as to the idea that we are making it discretionary for the States to pursue literacy training, it has been discretionary for the States to pursue literacy training. Some States have done it; some have not done it. I am fortunate that my State has pursued literacy training and has a reasonably good program in place. We can certainly do better. I think we would definitely try to do better under the amendment that I have proposed.

But to suggest that we are doing anything significant with the amendment of the Senator from South Carolina I think is a little disingenious in that they have had the discretion to pursue a literacy program. There is no Federal prohibition against that. In fact, all criminologists that I am aware of recognize the importance of providing people with the basics, particularly with the ability to read and write, as a part of allowing them to give up a life of crime and pursue some kind of law-abiding activity. All we are trying to do here is to move the States in that direction.

Let me just point out for the Senate the obvious provisions that we have in the bill which are intended to work with the States. This is not an onerous, get your act together next week kind of amendment.

First, let me point out this amendment applies only to facilities where there are 100 or more inmates in prison. In my State, there is one at the local level and there are several at the State level. But clearly this is not every jail or detention center in the country by any means.

Second, there are provisions in here that allow the chief correctional officer of the State or the local governmental entity to waive the requirement for a prisoner to take this literacy training where circumstances justify.

Third, there is a 5-year waiting period before the significant parts of this amendment take effect.

So we are talking here essentially about late 1996, 1997, before this requirement would even take effect. We are trying to direct States to move in this direction, to take this issue seriously, and to do what needs to be done.

The argument that we ought to be putting our money into education of our children sounds to me a little hollow in light of some of the votes that we have around the Senate here on funding of education. I favor increased funding for education, but I think we are all aware that the amount of funds available for public education and Federal assistance to public education is pretty constrained and has been, and over the last 10 years it has dropped significantly at the Federal level in real terms.

So we are not arguing here about taking funds that are available to children and shifting them over here. We are talking about taking funds out of the criminal justice system and saying that part of the criminal justice system needs to be directed toward keeping these prisoners from going in and out of jails most of their lives, which is in fact the case.

I cited yesterday the statistics to the Senate where 68 percent of the prisoners in my State, in our State prison system in New Mexico, 68 percent of the prisoners who did not receive literacy training returned to prison after they were first paroled. I think that is a deplorable circumstance and one that we have all over this country.

We need to try to help and ensure that once we send prisoners out of those prisons they can at least read and write and have some chance of remaining out and not pursuing the life of crime. Obviously, that does not solve the whole problem, but I would suggest to you it comes closer to solving a significant part of the problem than most anything else we have in this crime bill.

The suggestion was made that this is an issue of common sense. It is just a question of when we do it, when can we afford to do it. I would suggest to you that unless we adopt something like my amendment we will not be seriously pursuing this prior to the turn of the century. I think that would be unfortunate.

We do have these national education goals, as I said before, and I would like to see the Senate and the Congress take those goals seriously. We had no part in drafting those goals. The President and the Governors did not ask the Congress to draft those goals. But I think we should take them seriously, and this amendment helps to see that they are actually taken seriously and implemented.

Mr. President, I yield 2 minutes to the Senator from Delaware.

(Mr. BRYAN assumed the chair.)

Mr. BIDEN. Mr. President, I hope I will only take 1 minute.

Mr. President, every once in a while on the floor we do something that is fairly sound and fairly basic and recognizes a basic truism. One of the basic truisms of our criminal justice system is that many of the people in jails and in prisons who have acted out in antisocial ways in antisocial behavior have done so for a lot of complicated reasons, none of which are excusable and should be punished, and our bill does that.

But underlying the problem is a simply basic fact. A lot of those women and men are totally illiterate and that significantly contributes to their antisocial behavior, because they have no stake in anything and see very little prospect of gaining a stake. That, again, does not in any way excuse their behavior.

But this is just good, straight, common sense. If we could ask the Lord to come down and he could wave a wand, would there be a man or woman in here that would not say we would like every person in prison to become instantly literate and have confidence in their capability of conducting themselves outside prison walls? How could that possibly do anything but help?

So what the Senator from New Mexico is doing is not some goody-goody concern for the plight of those in prison; it is a serious, hard-baked concern for the plight of the people in this gallery and those who are watching this on television, it is hardnosed, good, common sense.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BINGAMAN. Mr. President, I yield 2 minutes to the Senator from Illinois.

Mr. SIMON. Mr. President, I rise in strong support of the Bingaman

amendment. We now spend more money to house a prisoner for a year than we spend for a student at Harvard for 1 year. For us not to spend a little bit more and see that these prisoners can learn how to read and write just does not make sense.

We spend a lot of time talking about drugs on this floor. Before the Labor and Human Resources Committee, the head of the NIH division that deals with drugs came and testified on the breakdown of who is using drugs by ethnic group, age group, and everything else. The group that is using drugs the most, he said, are the unemployed. The majority of those who are unemployed in this Nation 5 weeks or more are functionally illiterate.

We have to give people who are in prisons, when they get out, some kind of an option. You talk about anticrime programs. If there is any criticism of the Bingaman amendment it is that it does not take full effect for 5 years. I am sure he would like to make it 2 years or 1 year, and so would I. But this is moving us in a genuine anticrime direction, not just puffery. This is the real thing. I think we ought to stick with the real thing; we ought to stick with the Bingaman amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BINGAMAN. How much time remains on my side?

The PRESIDING OFFICER. One minute and 20 seconds.

Mr. BINGAMAN. Mr. President, I think this is a very good issue for the Senate to be debating. I think it is a good issue for us to have a vote on. I think the vote on the Thurmond amendment will in fact signal a couple of very important things. First, it will signal whether part of this crime bill is going to include a serious effort at reducing criminal behavior in our society.

I have supported the death penalty. I do not know, 40 or 50 or 60 times we impose the death penalty in this bill. I cannot tell you how many times after all the amendments have been offered. But I support imposing the death penalty. I support strong sentences. I support locking them up and throwing away the key, as the philosophy generally is around here.

But I also support giving people the ability to read and write so that they can, if they choose, veer away from a life of crime and make themselves into useful citizens. And I think that is what my amendment would require happen. The Thurmond amendment takes away that requirement and makes it discretionary. The question is: is the Senate going to be serious about an effort to provide literacy training to prisoners? I believe it should be. I believe we should defeat the Thurmond amendment and I hope my colleagues will join me in doing that.

I yield the floor.

Mr. KASTEN. Mr. President, no one can doubt the importance of having our prison inmates gain the necessary literacy skills that will keep them from becoming repeat offenders in the outside world after release.

What we have before us are two ways of working toward that goal. This goal of literacy training is one I share and was included in the SECURE crime bill that I introduced, S. 1335.

I am concerned, however, that where I wanted to proceed when adequate funds were made available to the States for this federally mandated program, under the Bingaman proposal we start right away to back off from our financial responsibility for this program. If the Federal Government comes up with just one-half of the amount, then the financially strapped States will have to come up with the other half. My Secretary of Corrections has major problems with this at a time that he faces other budget cutbacks in vocational/technical training and other areas.

I think if we are not going to assure the Federal funding of this federally mandated program, we should provide the incentive of such Federal moneys as are available, without threatening the loss of other badly needed Federal funds. The approach establishes again the Federal priority, and should push the States toward adopting their own programs. If this approach, with all of the innovation that the States can bring to bear is not being adopted after several years, then we can revisit this mandatory requirement.

I do agree with the concern of the Senator from New Mexico as to his desire to bring literacy to our State prisoners. However, if we are not willing to come up with all of the funding on a Federal level for this Federal mandate, I think we should pursue the incentive approach of the Thurmond amendment.

Mr. THURMOND. Mr. President, I just want to say in closing that if the Federal Government wants to establish these programs and pay for it, fine. But do not make the States pay for it if they are not able. If you have to choose between education for the children or the prisoners, I say educate the children first. And only the States can make that decision.

All over this Nation judges are turning prisoners loose because they do not have prison space. The States may say, "We better build some prisons, incarcerate these prisoners rather than have this literacy program." They may have to choose. There is only so much money available. Why should the Federal Government mandate to make the States do something they are not able to do?

Let the States choose. The people in the States have just as much sense down there as we have here in Congress, and sometimes I think much more, and are more practical. They are living down there; they understand the situation. But this amendment makes the States do something whether they are able to or not. And this applies to every State prison and every prisoner in every State prison, not just Federal prisons. It is not right for this Federal Government to come in and demand that the States do something if they are not able to do it.

Mr. President, I hope this amendment will be adopted. It is just an amendment to the Senator's amendment. And the programs can go on and be discretionary and not mandatory.

The PRESIDING OFFICER. The Chair would inform the Senator that the time allocated to him has expired. The time allocated to the Senator from New Mexico has expired.

Mr. THURMOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 518. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN], the Senator from North Dakota [Mr. BURDICK], and the Senator from California [Mr. CRANSTON] are necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

I further announce that, if present and voting, the Senator from North Dakota [Mr. BURDICK] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Vermont [Mr. JEFFORDS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 55, nays 39, as follows:

[Rollcall Vote No. 117 Leg.]

YEAS—55

Bond	Gorton	Murkowski
Breaux	Graham	Nickles
Brown	Gramm	Nunn
Bryan	Grassley	Packwood
Bumpers	Hatch	Pressler
Burns	Hatfield	Robb
Byrd	Heflin	Roth
Coats	Helms	Rudman
Cochran	Hollings	Seymour
Cohen	Kassebaum	Simpson
Craig	Kasten	Smith
D'Amato	Kerrey	Specter
Danforth	Leahy	Stevens
Dole	Lott	Symms
Durenberger	Lugar	Thurmond
Exon	Mack	Wallop
Ford	McCain	Warner
Fowler	McConnell	
Garn	Mitchell	

NAYS—39

Adams	Domenici	Moynihan
Akaka	Glenn	Pell
Baucus	Gore	Reid
Bentsen	Inouye	Riegle
Biden	Johnston	Rockefeller
Bingaman	Kennedy	Sanford
Boren	Kerry	Sarbanes
Bradley	Kohl	Sasser
Conrad	Lautenberg	Shelby
Daschle	Levin	Simon
DeConcini	Lieberman	Wellstone
Dixon	Metzenbaum	Wirth
Dodd	Mikulski	Wofford

NOT VOTING—6

Burdick	Cranston	Jeffords
Chafee	Harkin	Pryor

So the amendment (No. 518) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, since my amendment was agreed to, Mr. BROWN of Colorado will not offer his amendment.

AMENDMENT NO. 520 TO AMENDMENT NO. 518

The PRESIDING OFFICER. The Chair, having been informed that the Senator from Colorado [Mr. BROWN] will not offer his amendment, under the previous order, the Senator from Illinois has an opportunity to offer a second-degree amendment with a prearranged time agreement of 10 minutes, controlled 5 minutes by himself and 5 minutes to the Senator from South Carolina.

The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, we will not need to use the 10 minutes. And because my original amendment was drafted to the Bingaman amendment and is in the process of being redrafted, I ask unanimous consent that the amendment I now send to the desk be in order, notwithstanding the adoption of the Thurmond amendment, and notwithstanding it strikes the amendment in more than one place.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, we have no objection to the amendment. We are willing to accept it.

Mr. SIMON. Mr. President, this amendment is cosponsored by Senator KOHL. It simply clarifies the language on learning disabilities. I know of no opposition. I hope it can be adopted.

The PRESIDING OFFICER. The Senator has made a unanimous-consent request. There is no objection to it, so the request made by the Senator from Illinois is agreed to. His amendment may be so amended. It will be in order when offered.

Mr. SIMON. Mr. President, I now offer the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself and Mr. KOHL, proposes an amendment numbered 520 to amendment No. 518.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend amdt. No. 518 (Thurmond) as follows:

In the first section (b)(B)(i)(I) insert after "literacy", "or in the case of an individual with a disability, achieves a level of functional literacy commensurate with his or her ability.".

In (b)(B)(iii) strike all after "appropriate education services" and insert in lieu: "and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the jail or detention center.".

Strike all of (b)(2)(D).

In (c)(2)(D) insert after "literacy" the following: "and the names and types of tests that were used to determine disabilities affecting functional literacy.".

Mr. SIMON. Mr. President, this amendment simply clarifies the language in terms of learning disabilities. As Mr. THURMOND has indicated, there is no objection to it. I know of no objection. I hope we can adopt the amendment.

Mr. KOHL. Mr. President, I rise in support of the amendment offered by our colleague from Illinois. I want to commend him for his long-term efforts in this area.

Some 60 percent of our prison population is functionally illiterate. Once we have failed to educate or intervene with this at-risk group, it seems to me that we have a responsibility to provide that education and training during incarceration. With appropriate testing and literacy training, we can turn many of those lives around. We can keep many offenders from becoming repeat offenders by helping them to develop the skills they need to get and keep jobs on the outside. The Senator from New Mexico's amendment is a good step in that direction.

However, I have concerns that without screening for disabilities, especially learning disabilities, that we would not be able to address some of the very real obstacles to learning that many in juvenile detention centers and prison face. Research has shown that learning disabled youths are two times as likely to be judged delinquent by the courts as are nonlearning disabled youth. When the National Center for Learning Disabilities trains parents, educators and family court judges on learning disabilities, here are some of the indicators they suggest looking for: A short attention span, difficulty following directions, poor reading ability, poor eye-hand coordination, quick temper, impulsivity, disorganized, accident prone, extremely overactive or underactive. Is it any wonder, Mr. President, that left unserved or misdiagnosed, these individuals might easily find themselves in detention centers, jails or prisons?

One study found that 36 percent of boys who were ruled delinquent by the courts had learning disabilities. I think it is important that, before we deny parole based on illiteracy, we screen and assess those people for learning disabilities. It is important to distinguish between illiteracy, learning, and other disabilities. They mandate different services, and we ought to be cognizant of that. We should provide access to those services even behind bars, if we must.

So I want to join my colleagues from Illinois and New Mexico. The amendment before us is a substantial contribution to the prison literacy program. I urge my colleagues' support.

The PRESIDING OFFICER. Is there further debate?

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico [Mr. BINGAMAN].

Mr. BINGAMAN. Mr. President, I support the amendment. It is an excellent amendment and helps clarify what we originally intended.

The PRESIDING OFFICER. Is there further debate?

Mr. SIMON. Mr. President, as I have just been advised by the staff because the amendment has to be technically modified for the Thurmond amendment, I ask unanimous consent that the staff be authorized to correct the amendment to conform to the Thurmond amendment.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, we have no objection.

The PRESIDING OFFICER. The Chair hears none. The request of the Senator is agreed to.

The Chair informs the Senator from Illinois that there is still time allocated to him.

Mr. SIMON. I yield back my time.

Mr. THURMOND. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to Amendment No. 520. Is there further debate?

The amendment (No. 520) was agreed to.

Mr. SIMON. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I will only take one brief minute to say that I struggled with that last vote regarding prisoner literacy. I struggled with it because I think literacy is the key component in curbing crime in the country. It is certainly no panacea.

But just to give you an idea of the effect of this sort of program, I remember when I was Governor of my State, Betty, my wife, got a small grant for Arkansas from the National Endowment for the Arts. We used that money to establish an art program in elementary schools around the State and also to start an art program at the penitentiary. We found that a lot of inmates who never had a dog's chance had a lot of artistic talent. And the end of the story is if somebody had picked up on that talent at a tender age and guided it, directed it, and cultivated it, a lot of those fellows would not have been in the penitentiary.

The Senator from New Mexico has an absolutely excellent idea. This sort of literacy program ought to be mandatory in every State. It is my understanding that we have a literacy program in the prisons in my State because I know our Governor has been deeply involved in literacy.

Normally I just routinely vote with the Senator from New Mexico because of my profound respect for his judgment, his integrity, and his vision on issues like this. The only reason I chose not to vote with him on this amendment, the Thurmond amendment, was because virtually every State in the country is broke. And no matter how meritorious a matter might be I do not know how many more things we can mandate that the States pick up the tab for.

In my opinion, a grants program is probably going to entice most of them along. I think probably most States already have a literacy program in their penitentiaries. If they do not, I think this grants program, administered on a discretionary basis, will certainly bring them along, and if it does not, then in future votes I will support the idea of the Senator from New Mexico. I applaud his efforts, I cannot think of a single more worthwhile thing that the States could be doing, or that the Federal Government could be doing. I might just ask the Senator from New Mexico, while I am on my feet, if the Federal Government has a literacy program that is mandated in all of our Federal penitentiaries.

Mr. BINGAMAN. I respond to the Senator that, yes, the Federal Government does, through the Bureau of Prisons. It is a very good program. At this point I think about 35 percent of the Federal prisoners are participating in an education program at this time. This is exactly the kind of thing we are trying to institute in each State.

Mr. BUMPERS. One additional questions to the Senator. The proper time to have made this speech was on the debate on the amendment, not after it was voted on. But to satisfy personal curiosity, do we have good figures on how many people going to prison are illiterate when they enter it for the first time?

Mr. BINGAMAN. We do not have as good as figures, I respond to the Senator, as we shoud have. The estimate we have been given by the Bureau of Prisons is that it is something in the range of 60 percent of the prisoners. There are 620,000 inmates in this country today who are in fact illiterate, at least not able to read to the eighth-grade level, which is what we are trying to accomplish through this amendment.

Mr. BUMPERS. I cannot think of anything that would help curb the crime rate more. Of course we all know that we now have upward of 50, I believe, crimes in this bill for which somebody can be executed. Somebody said to me the other day that we covered everything but jaywalking.

I have not heard one single speech on this floor about who is committing the crimes in this country and why they are committing them. We all know that poverty and ignorance are the two great breeders of crime, but we would rather stand here and talk all day long about other things.

Certainly we have to do it. We have to get criminals off the street, and we have to lock them up and do the best we can, but for every 8 we are locking up 10 more are jumping up to take their places.

When you consider that one out of every five children in this country is growing up in poverty, you can rest assured that we will overtake Colombia as the crime capital of the world in 1993. In the out years long after most people in this body have been gone those 20 percent of the children in this country who are growing up in poverty, a good big percentage of them, are going to be on welfare, or are going to be hopelessly unemployed, or are going to be imprisoned. Yet I have not heard one single speech around here—about that. I guess everybody is afraid to be classified as a bleeding heart if they try to deal with the root cause of crime instead of dealing with the branches of it.

But I think that the Senator from New Mexico has opened up a debate on one of the most serious problems, and has proposed a solution.

Mr. President, I yield the floor.

Mr. SIMON. Mr. President, I appreciate the leadership our colleague Senator BINGAMAN has provided on this important issue. There is no question that by reducing functional illiteracy among our prison population we will be taking effective steps to reduce our overall level of crime. I strongly support his initiative and hope we act on it favorably.

There was one area in which I suggested some modification—involving the attention we need to give to the role disabilities play in functional illiteracy—and I am pleased that my colleague has accepted these changes. I should add that our colleagues Senator KOHL and Senator HARKIN also had a major part in working out language on this.

In order to be effective, the literacy programs we offer to prisoners must take into account the disabilities that might have contributed to their functional illiteracy. If we are going to require inmates to participate in these programs and reward them for their success, we need to make sure the programs are designed to work effectively for them and achievement is measured by the efforts an individual makes to reach his or her maximum potential.

Above all, we should not be giving excuses for individuals with disabilities to be left out. For too many years, we routinely put exemptions in the law for people with disabilities when we required mandatory schooling. The thought may have been that we were doing them a favor. In reality, we were denying an equal opportunity for education to millions of children and young adults with disabilities.

We frankly need more information on the links between learning disabilities and other disabilities that affect literacy, and those who wind up in our prisons. The small amount of data we have indicates people with these disabilities could be 60 percent of our prison population. Some information from people working on the problems of learning disability and attention deficit disorder indicates the percent could be even higher.

We know that more than 40 percent of children currently being served under the Individuals With Disabilities Education Act have learning disabilities. They have a greater hope than our children had in the past that they will be taught to read, but we are not succeeding with all of them. And those who went through school before we started making these efforts make up part of our prison populations.

The Office of Juvenile Justice determined back in the 1970's that 36.5 percent of one group of delinquent boys had previously undiagnosed learning disabilities. They estimated about one-third of the 100,000 youths then in juvenile detention had undetected learning disabilities. The good news they reported was that with just 60 hours of appropriate remedial training, these youths rarely had an incidence of a repeat offense. The unfortunate news today is that we did not follow up to make sure all those young people got that 60 hours of training. We can be fairly certain a large number are now adults in our prison system—and they have still not gotten the literacy training they need to function in society.

The best policy is to make sure we prevent the frustration and failure children face when they do not learn to read—whether it is because of a learning disability, some other disability, or because of an overcrowded classroom or some other failure in our education

system. But we clearly have not been putting this best policy into effect. Many, many young people have faced frustration and failure, and it has played some role in their delinquency and then involvement in more serious crime, although we do not know the accurate dimensions of that problem.

One of the benefits of the Bingaman amendment is that it will give us a better picture of the problem of illiteracy and its relationship to crime. I hope it ultimately also will add to our determination to act in a more cost effective and humane way: To invest in the quality education our children must have to succeed so they will not wind up in getting remedial services behind the bars of prison.

This is needed, positive, and effective anticrime amendment, and again, I commend our colleague for his leadership.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment No. 517, as amended.

Mr. BINGAMAN. Mr. President, could I take another minute or two of the Senate's time before we go to final vote on the amendment.

I recognize that a good share of what we have proposed in my amendment was essentially stricken when we adopted the Thurmond perfecting amendment. But I say that there are a couple of good things that remain.

One is that we are authorizing $10 million this next year and then that continues to increase up to $25 million for use in literacy programs. I think everyone here knows that is a futile act unless we follow through with an appropriation.

I urge my colleagues to just take note that we need this support in funding this program in the appropriations process as well as in the authorizing process.

So some of those who opposed my amendment and favored the Thurmond approach instead indicated that they felt very strongly that this money should be available at the Federal level, and we should try to help the States. I just say that when we get down to appropriating funds we need to actually put the money in this program, and see to it that it is administered and implemented in the way we believe it should be.

But I appreciate the fact that we are doing something in this area, and I wish it had been more, but perhaps in the coming months we can find a way to do even more.

So I urge my colleagues to support the amendment.

Mr. BIDEN. Mr. President, I rise to compliment my friend from New Mexico on coming forward on one of the truly helpful amendments in this legislation. I wish it had gone through as he had proposed, but this is a significant start. I compliment him for his effort.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from New Mexico, as amended.

The amendment (No. 517), as amended, was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I ask unanimous consent that Senator COCHRAN now be recognized to offer an amendment regarding illegal drug supply reduction, with only relevant second degree amendments in order to the Cochran amendment; that no amendment to any language proposed to be stricken or a motion to recommit be in order during the pendency of the Cochran amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Mississippi [Mr. COCHRAN] is recognized.

AMENDMENT NO. 495

(Purpose: An amendment to augment and clarify law enforcement agency roles in ordering aircraft to land and vessels to bring to, and for other purposes.)

Mr. COCHRAN. Mr. President, I ask that my amendment be reported, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes an amendment numbered 495.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE —DRUG SUPPLY REDUCTION

Subtitle A—Interdiction Systems Improvements

SEC. 01. SHORT TITLE FOR SUBTITLE A.

This subtitle may be cited as the "Order To Land or To Bring To Act of 1991."

SEC. 02. SANCTIONS FOR FAILURE TO LAND OR TO BRING TO.

(a) Chapter 109 of title 18 of the United States Code, is amended by adding at the end thereof the following new section:

"SEC. 2237. ORDER TO LAND OR BRING TO.

"(a)(1) In the enforcement of the laws of the United States relating to controlled substances, as that term is defined in the Controlled Substances Act, or relating to money laundering (sections 1956–57 of this title), it shall be unlawful for the pilot, operator, or person in charge of any aircraft which has crossed the border of the United States, or any aircraft subject to the jurisdiction of the United States operating outside the United States, to refuse to obey the order of an authorized Federal law enforcement officer to land.

"(2) The Administrator of the Federal Aviation Administration and the Commissioner of Customs, upon consultation with the Attorney General, shall prescribe regulations governing the means by which an order to land may be communicated to the pilot, operator, or person in charge of an aircraft by Federal law enforcement officers.

"(3) This section does not limit in any way the preexisting authority of a customs officer under section 581 of the Tariff Act of 1930 or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to bring to.

"(b) It is unlawful for any master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States to fail to bring to that vessel on being ordered to do so by a Federal law enforcement officer authorized to issue such an order.

"(c) Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under this section may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State of the Secretary's designee.

"(d) For purposes of this section—

"(1) a "vessel of the United States" or a "vessel subject to the jurisdiction of the United States" has the meaning set forth in the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) an aircraft "subject to the jurisdiction of the United States" includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation where the nation of registry has consented or waived objection to the enforcement of United States law by the United States;

"(3) the term "bring to" means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state; and

"(4) "Federal law enforcement officer" has the meaning set forth in section 115 of this title.

"(e) A person who intentionally violates the provisions of this section shall be subject to—

"(1) imprisonment for not more than two years; and

"(2) a fine as provided in this title.

"(f) Any vessel or aircraft that is used in a violation of this section may be seized and forfeited. The provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any of the provisions of this section; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. Any vessel or air-

craft that is used in a violation of this section is also liable in rem for any fine or civil penalty imposed under this section.".

(b) CONFORMING AMENDMENT.—The analysis at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"2237. Order to land or to bring to.".

SEC. 03. FAA REVOCATION AUTHORITY.

(a) Section 501(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401(e)) is amended by adding at the end the following:

"(3)(A) The registration of an aircraft shall be immediately revoked upon the failure of the operator of an aircraft to follow the order of a Federal law enforcement officer to land an aircraft, as provided in section 2237 of title 18 of the United States Code. The Administrator shall notify forthwith the owner of the aircraft that the owner of the aircraft no longer holds United States registration for that aircraft.

"(B) The Administrator shall establish procedures for the owner of the aircraft to show cause—

(i) why the registration was not revoked, as a matter of law, by operation of subparagraph (A) of this subsection (3); or

(ii) why circumstances existed pursuant to which the Administrator should determine that, notwithstanding subparagraph (A), it would be in the public interest to issue a new certificate of registration to the owner to be effective concurrent with the revocation occasioned by operation of subparagraph (A).".

(b) Section 609 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1429(e)) is amended by adding at the end the following new subsection (d):

"(d)(1) The Administrator shall issue an order revoking the airman certificate of any person if the Administrator finds that (A) such person, while acting as the operator of an aircraft, failed to follow the order of a law enforcement officer to land the aircraft as provided in section 2237 of title 18 of the United States Code, and (B) that such person knew or had reason to know that he had been ordered to land the aircraft.

"(2) If the Administrator determines that extenuating circumstances existed, such as safety of flight, which justified a deviation by the airman from the order to land the provisions of paragraph (1) of this subsection shall not apply.

"(3) The provisions of subsection (c)(3) of this section shall apply to any revocation of the airman certificate of any person for failing to follow the order of a Federal law enforcement officer to land an aircraft.".

SEC. 04. COAST GUARD AIR INTERDICTION AUTHORITY.

(a) AIR INTERDICTION AUTHORITY.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following new section:

"SEC. 96. AIR INTERDICTION AUTHORITY.

"The Coast Guard may issue orders and make inquiries, searches, seizures, and arrests with respect to violations of laws of the United States occurring aboard any aircraft subject to the jurisdiction of the United States over the high seas and waters over which the United States has jurisdiction. Any order issued under this section to land an aircraft shall be communicated pursuant to regulations promulgated pursuant to section 2237 of title 18, United States Code.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 5 of such title is amended by adding at the end the following:

"96. Air Interdiction authority."

SEC. 05. COAST GUARD CIVIL PENALTY PROVISIONS.

(a) CIVIL PENALTY.—Chapter 17 of title 14, United States Code, is amended by adding the following new section:

"SEC. 667. CIVIL PENALTY FOR FAILURE TO COMPLY WITH A LAWFUL BOARDING OR ORDER TO LAND.

"(a) The master, operator or person in charge of a vessel or the pilot or operator of an aircraft who intentionally fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is liable to the United States Government for a civil penalty of not more than $25,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(b) The master, operator or person in charge of a vessel or the pilot or operator of an aircraft who negligently fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is liable to the United States Government for a civil penalty of not more than $5,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(c) Any vessel or aircraft used in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is also liable in rem for the criminal or civil penalty assessed under this section.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 666 the following:

"667. Civil penalty for failure to comply with a lawful boarding or order to land.".

SEC. 06. CUSTOMS ORDERS.

Section 581 of the Tariff Act of 1930, as amended (19 U.S.C. 1581) is further amended by adding a paragraph (i) to read as follows:

"(i) As used in this section, the term "authorized place" includes—

"(1) with respect to a vehicle, any location in a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations, or searches;

"(2) with respect to aircraft to which this section applies by virtue of section 644 of this Act (19 U.S.C. 1644), or regulations issued thereunder, or section 2237 of title 18 of the United States Code, any location outside of the United States, including a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations, or searches.".

SEC. 07. CUSTOMS CIVIL PENALTY PROVISIONS.

(a) The Tariff Act of 1930, as amended, is further amended by adding a new section 591 (19 U.S.C. 1591) as follows:

"SEC. 591. CIVIL PENALTY FOR FAILURE TO OBEY AN ORDER TO LAND OR TO BRING TO.

"(a) The pilot or operator of an aircraft who intentionally fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 1581 of this title, or of section 2237 of title 18 of the United States Code, is subject to a civil penalty of not more than $25,000 which may be assessed by the appropriate customs officer.

"(b) The pilot or operator of an aircraft who negligently fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 1581 of this title, or of section 2237 of title 18 of the United States Code, is subject to a civil penalty of not more than $5,000, which may be assessed by the appropriate customs officer.".

Subtitle B—New Coast Guard Authorities

SEC. 11. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Coast Guard Assistance Act of 1991."

SEC. 12. INFORMATION EXCHANGE AND ASSISTANCE.

Section 142 of title 14, United States Code is amended—

(a) by inserting "(a)" at the beginning of the text, the words "and international organizations" after "with foreign governments", and the words "maritime law enforcement, maritime environmental protection, and" after "matters dealing with".

(b) by adding a new subsection "(b)" as follows:

"(b) the Coast Guard may, when so requested by the Secretary of State, utilize its personnel and facilities to assist any foreign government or international organization to perform any activity for which such personnel and facilities are especially qualified.".

SEC. 13. ASSISTANCE TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.

(a) IN GENERAL.—Section 149 of title 14, United States Code is amended to read as follows:

SEC. 149. ASSISTANCE TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.

"The President may upon application from the foreign governments or international organizations concerned, and whenever in his discretion the public interest renders such a course advisable, utilize officers and enlisted members of the Coast Guard to assist foreign governments or international organizations in matters concerning which the Coast Guard may be of assistance. Utilization of members may include the detail of such members. Arrangements may be made by the Secretary with countries to which such officers and enlisted members are detailed to perform functions under this section, for reimbursement to the United States or other sharing of the cost of performing such functions. While so detailed, such officers and enlisted members shall receive the pay and allowances to which they are entitled in the Coast Guard and shall be allowed the same credit for all service while so detailed, as if serving with the Coast Guard.".

(b) CONFORMING AMENDMENT.—The analysis at the beginning of chapter 7 of title 14, United States Code, is amended by replacing the wording following "149" with: "Assistance to foreign governments and international organizations."

SEC. 14. AMENDMENT TO THE MANSFIELD AMENDMENT TO PERMIT MARITIME LAW ENFORCEMENT OPERATIONS IN ARCHIPELAGIC WATERS.

Section 2291(c)(4) of title 22, United States Code, is amended by inserting the words ", and archipelagic waters" after the words "territorial sea".

Mr. COCHRAN. Mr. President, the purpose of this amendment is to provide legal authority for the U.S. Coast Guard to conduct search and seizure operations involving drug smuggling similar to the authorities that are now in the law and vest authority in the U.S. Customs Service.

Specifically, it will create criminal and civil penalties for refusing to heed

Coast Guard instructions to land the plane, or to allow the Coast Guard to board a vessel at sea if drug smuggling is suspected. In effect, it will give the Coast Guard authority to use methods of drug interdiction that are currently employed by the Customs Service. It would also allow the Coast Guard to be more involved in coordinating efforts with foreign countries and with international organizations.

Statistics have clearly shown that the influence of drugs in the commission of violent crime in this country is beyond question. And most of these drugs come from importation activities, smuggling activities into the United States from other countries. In 1990, between 375 and 545 metric tons of cocaine came across our borders, 101 tons of that was seized by law enforcement authorities, leaving hundreds of tons of cocaine to infiltrate our society.

The estimated value of the cocaine that made it to the streets of the cities of this country is estimated to be between $25 billion and $44 billion.

Of course, we have to improve efforts to reduce the demand for these drugs, but we also must look at strengthening our own laws and our own capabilities of dealing with drug smuggling activities. Under the leadership of the administration and, particularly Governor Martinez, in his position as drug czar, there has been a package of suggested changes made to the Congress with a request that these laws be strengthened and improved. That is the purpose of this amendment. It deals with the narrow issue of the U.S. Coast Guard authority in trying to help improve their opportunity for dealing with drug-smuggling activities.

I hope the amendment can be agreed to, Mr. President.

The PRESIDING OFFICER. Is there further debate?

Mr. GLENN. Mr. President, I have a couple of questions for my colleague from Mississippi.

The PRESIDING OFFICER. Does the Senator yield to the Senator from Ohio for a question?

Mr. COCHRAN. Yes.

Mr. GLENN. Mr. President, I want to make certain we are not getting in a similar situation as to what we had last year, where we are going to permit enforcement authorities to actually have the authority to shoot down private aircraft. We defeated that last year on the floor, and I was very much involved with that. And I want to make certain that nothing in the proposed legislation, which I have just received a copy of, can be interpreted to permit that kind of activity.

As I understand it, what would be proposed with regard to aircraft would be that the Federal Aviation Administration would be charged with investigating and promulgating ways by which orders to land could be communicated to a particular aircraft, and then the other enforcement provisions of the legislation, such as confiscation of aircraft, revocation of pilot certificate, and things like that, would be the means of enforcing this. But the main thrust with regard to aircraft would be only in working out a successful, satisfactory means of communicating an order to land and identifying the person giving the order in some way—I do not know quite how—as the authority, not just a clandestine broadcast of some kind; but the main question is: This would not authorize any shootdown or forcedown of an aircraft similar to what we had in last year's legislation; is that correct?

Mr. COCHRAN. Mr. President, if the Senator would yield, I would be happy to respond to his question.

His reading of the amendment is correct. This does not create any new authority to use weapons to shoot down an aircraft that does not respond to an order to land. It does create an opportunity to revoke a license and take other steps in the way of sanctions that would enforce the authority to direct a landing by the Coast Guard. We hope that the FAA and the Coast Guard could work together to develop procedures that are well understood and publicized to help carry out the intent of the amendment.

Mr. GLENN. A further question: Does this legislation apply only to the Coast Guard, or would it apply to FAA authorities, or others who are involved in Federal law enforcement?

Mr. COCHRAN. It purports to apply primarily to the Coast Guard. Insofar as other agencies may be involved, I am not able to say that it attempts to vest any new powers specifically in other agencies. But if they are cooperating and are a part of a Coast Guard-directed operation and under the jurisdiction of the Coast Guard, then it could very well be that they might have the same standing as the Coast Guard for the purpose of this amendment. But the amendment does not seek to vest any new powers in any other agency directly.

Mr. GLENN. In section 02, in one of the latter part of that paragraph, it indicates:

* * * it shall be unlawful for the pilot, operator, or person in charge of any aircraft which has crossed the border of the United States, or any aircraft subject to the jurisdiction of the United States operating outside the United States, to refuse to obey the order of an authorized Federal Law enforcement officer to land.

That would broaden it, I guess, to any Federal law enforcement officer. That would be more broad than just the Coast Guard; is that correct?

Mr. COCHRAN. It would only apply to the agencies that have that authority. This amendment does not seek to create any new authority for any other agency specifically, except the Coast Guard.

Mr. GLENN. Could the Senator tell me whether there has been any advance consultation with FAA as to exactly how this would work, because this idea of communicating and making sure it is authenticated and making sure the pilot understands that it is coming from a Federal law enforcement officer legitimately is a considerable problem. This is the problem we ran into last year. I am not opposing what the Senator is trying to do here. I think it is probably well justified. I am trying to find out exactly how it would operate.

Mr. COCHRAN. The amendment was developed, in consultation with many Federal agencies, by the Office of Drug Control Policy. We were asked to try to help initiate congressional action that would give effect to the suggestion of the Office of Drug Control Policy.

So it has been the subject of discussion and review by all relevant Federal agencies, we are told, including the FAA.

Mr. GLENN. But can the Senator tell me, please, if there is any way worked out yet, or any method proposed yet, by which this order to land would be promulgated to an aircraft—who it would come from, how it is authenticated, how we know it is not just someone broadcasting who does not have this kind of Federal authority?

Mr. COCHRAN. We have not had any indication that that has been finally agreed upon among the agencies that would be involved in developing that kind of regulation to implement this law. This law, if it is approved by the Congress, would simply vest the authority in the Coast Guard and provide authority for sanctions to be imposed. The details would have to be worked out in terms of communications and how you are able to determine the legality of an order to land, the authority of a person sending a message. The Senator is quite right, these are problems that are practical and need to be taken into account by the Coast Guard and anybody else who seeks to give that kind of order. As I understand it, the Customs Service is now involved in that kind of legal activity that is sanctioned by law—directions to land, forcing the landing of planes suspected to be carrying contraband.

I am personally not familiar with how they do that, but I am sure the Coast Guard is going to follow very closely whatever appropriate steps have been taken by the customs official to use that kind of authority.

(Mr. ROBB assumed the chair.)

Mr. GLENN. I am not opposing the amendment—I repeat that—at this point. I am just trying to get clarification on it. My next question would be if such arrangements can be worked out.

What the Senator is proposing is that FAA and the appropriate authorities, Coast Guard and others of these Fed-

eral law enforcement agencies, are authorized to try and work out some method by which an aircraft could be ordered to land if that can be worked out; is that correct?

Mr. COCHRAN. I am happy to work with the Senator. This bill, of course, will go to conference and there will be opportunity to fine tune it and improve it, maybe, in consultation with the House. But I hope that we could do it that way rather than trying to rewrite it right here without the benefit of the advice and counsel from downtown.

Mr. GLENN. Let me say to my distinguished colleague from Mississippi, I am not proposing to make amendments this morning to it here. As I understood, it is to authorize the Federal law enforcement agencies, including the Coast Guard, to look into ways and prescribe regulations governing, as the bill says, the means by which an order to land may be communicated to the pilot.

Mr. COCHRAN. May I just ask a question? Is the Senator reading from a staff memo? He is not reading from my amendment, I do not think.

Mr. GLENN. Yes, I am.

Mr. COCHRAN. I cannot find it. Where was the Senator?

Mr. GLENN. Section 2(a)(2), and I read from the amendment.

The Administrator of the Federal Aviation Administration and the Commissioner of Customs, upon consultation with the Attorney General, shall prescribe regulations governing the means by which an order to land may be communicated to the pilot, operator, or person in charge of an aircraft by Federal law enforcement officers.

In other words, as I interpret that, they are just to try and work out regulations governing the means by which an order to land may be communicated. Is that correct?

Mr. COCHRAN. They are being given an order by the Congress to prescribe regulations governing the means by which an order to land may be communicated to the pilot, operator, or person in charge of an aircraft.

Mr. GLENN. I repeat my previous question then. According to that paragraph, if they are to develop that, do we have an idea of what may be the means that they may order a person to land and be so indicated and the pilot will know it is justified?

Mr. COCHRAN. This Senator does not know personally what those regulations will be. That is one reason why we are hoping that they will respond to this amendment by developing regulations that will work, that will be clearly understood, and that would help improve our drug interdiction effort.

As far as this morning being able to predict what the regulations will contain, this Senator is not capable of doing that. I would hope that we would monitor the process. We will have an opportunity to comment during the period, and we all have to review the proposed regulations, and if they miss the boat or if it is a regulation that is impractical, I think we will have an opportunity to express ourselves at that point.

Mr. FORD. Mr. President, may I join the colloquy here with my friends?

The PRESIDING OFFICER. The Chair will remind the Senator from Kentucky the Senator from Ohio has the floor.

Mr. GLENN. I am glad to yield without losing my right to the floor.

Mr. FORD. Just a question. Is this not practically the same amendment we had recently, or similar to that, where you would have a private airplane warning? Could we not get into that if the regulations come out that way?

Mr. GLENN. I have read this and, as I understand it, this is only dealing with how you will communicate an order to an airplane to land from an authorized Federal official who has authority to do exactly that. That is considered. That is much different than the one we debated last year that the Senator, my colleague from Kentucky, Senator MCCONNELL, offered, that included such draconian measures, as I saw it, as shooting down an aircraft that refused to land and you somehow are supposed to communicate over to another airplane either by signals or something or other—which nobody quite defined at that time—that he is supposed to land and, if he chooses to ignore you, you were authorized to shoot the airplane down.

Mr. COCHRAN. If the Senator will yield, I want to make real clear we are not trying to authorize the shooting down of airplanes by this amendment. What we are trying to do is give the authority to revoke a pilot's license if he refuses to obey a lawful command issued to land.

Mr. FORD. I want to be sure we are not coming in the back door.

The PRESIDING OFFICER. The Chair will remind Senators to please address the questions through the Chair.

Mr. FORD. I thought I had, Mr. President. I apologize.

Mr. President, I wanted to tell my colleagues I wanted to establish that we were not getting into the same posture under these circumstances that we were then. And most of the private operators that I visited with were quite concerned about being shot down or warned, or things of that nature. I just want to be sure we were not traveling down that same primrose path.

Mr. GLENN. The Senator is correct. I add, as I understand this, it is to authorize FAA and appropriate law enforcement officials first to seek if they can develop such a means of communication so that the pilot would know that he definitely has been ordered to land by Federal officials. Absent the development of such a system of communication, there is no further action that would be permitted under this; is that correct?

Mr. COCHRAN. This involves things other than directions to aircraft. This has to do with boarding vessels and requiring vessels to heave to and be permitted to board, and other actions, cooperating with international agencies and other countries in drug smuggling activities. So there are several new powers created and sanctions authorized under this amendment. This is simply one of several.

But I appreciate the Senator's expression of concern and notice that the amendment directs that any such regulation be written in consultation with the Attorney General. I am confident that every effort is going to be made to safeguard the rights of innocent citizens and others who may have reason to be flying general aviation aircraft.

Mr. GLENN. I would say I would rather doubt, Mr. President, that such a means can be developed for aircraft. We went into this very thoroughly last year, and perhaps some means can be devised that would permit such an order to be given in some way so that the person would know that transmission came from a legitimate authority. It has to work at night. It has to work in weather and work under all sorts of conditions.

With the assurances of the Senator that nothing in this can be construed to make a physical force-down or a shoot-down possible, which was proposed last year, I would have no objection to this legislation. I would certainly follow closely any development that the law enforcement officers and the FAA might develop that would apply to private aircraft, which I was particularly concerned about.

I do not have any doubt about the ability of a Coast Guard vessel to pull up alongside another vessel at sea, a ship, and be identified at night or day or any other time by search light or whatever it is that is there. Just the visibility of the type ship and its markings and everything else identify it positively, and any ship at sea knows what a Coast Guard vessel looks like when it is pulled up alongside and tells the other vessel to stop. There is not any doubt about that. But for aircraft, it is a little different.

After the experience last year, which I thought was very misguided and shortsighted and then the proposal that was defeated last year to permit enforcement authority to actually shoot down a private aircraft if they told him how to land and it did not land or whatever, I wanted to make certain we were not getting into that same type situation again.

Mr. President, with those understandings and clarifications by my friend from Mississippi, which I appreciate, I would have no objection to this. But I want to follow very closely whatever method may be developed by

these people and in the way of communicating any orders to land and how they might be carried out.

I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi [Mr. COCHRAN].

Mr. COCHRAN. Mr. President, I thank sincerely my distinguished friend from Ohio for his comments and inquiries. His expertise as a pilot and experience in aviation is well known around the world. His observations and comments I think are very helpful in our understanding of some of the practical implications of the law of this kind of regulation that might be issued and implemented.

So I am joining with him in committing myself to the Senate to also follow carefully the writing of these regulations and to consult with others so as we go through this process to be sure that the rights of innocent pilots and others who might have a reason to be flying aircraft in a lawful way, not committing any crime at all, would be taken into account in the writing of the regulations so that those rights will be safeguarded completely. I thank the Senator very much.

Mr. President, to further clarify and explain the amendment, in January of this year, President Bush submitted to the Congress his national drug control strategy for 1991. This is the third such report since the creation of the Office of National Drug Control Policy in 1988. This report recognizes that "prevention is the only answer in the long run, but in the short run, increased interdiction, international, and law enforcement efforts are necessary" in the continuing battle against illegal drug use.

The amendment I have offered will help meet the goals of the President's strategy. It will give the Coast Guard increased authority in drug interdiction efforts. It will create criminal and civil penalties for refusing to heed Coast Guard instructions to land a plane or to allow the Coast Guard to board a vessel at sea if drug smuggling is suspected. In effect, it will give the Coast Guard authority to use methods of drug interdiction that are currently employed by the Customs Service. My amendment would also allow the Coast Guard to be more involved in coordinating efforts with foreign countries and with international organizations.

Mr. President, while these are not major issues on their surface when compared to amendments on the death penalty or other issues we have debated on this bill, the connection of the illegal drug trade to violent crime is indisputable, and every effort we make to inhibit the illegal distribution of drugs is a step toward reducing violent crime.

A 1989 survey of 23 major cities conducted by the National Institute of Justice found that 73 percent of the men arrested in those cities on robbery charges tested positive for drugs at the time of arrest; the corresponding figure for women was 75 percent. When arrests were made on murder charges in these cities, 57 percent of the men and 46 percent of the women arrested tested positive for drugs. For aggravated assault arrests, 55 percent of the men and 53 percent of the women tested positive for drugs. And on sex offenses, including rape, 44 percent of the men tested positive for the presence of drugs in their system.

Mr. President, these statistics are one indication of the influence of drugs in the commission of violent crime. But where do these drugs come from? One hundred percent of the cocaine supply in the United States is imported from other countries. In 1990, between 375 and 545 metric tons of cocaine came across our borders; 101 tons of that was seized by law enforcement authorities, leaving hundreds of tons of cocaine to infiltrate our society. The estimated value of the cocaine that made it to our streets: $26 to $44 billion.

While we must improve our efforts to reduce the demand for drugs, we must also look to ways to let drug criminals know that if they pursue their trade, they will be apprehended and held accountable for their actions.

Under the leadership of President Reagan and now President Bush, the United States has developed an expansive web of law enforcement mechanisms designed to impede the invasion of illegal drugs into our country. This amendment will provide one more obstacle to those who might otherwise evade our drug interdiction efforts.

The PRESIDING OFFICER. The Senator from Mississippi retains the floor.

Mr. COCHRAN. Mr. President, I know of no other Senators seeking recognition to speak on the amendment.

May I inquire if there is time remaining under the order?

The PRESIDING OFFICER. There is no time agreement on this particular amendment. Is there additional debate?

If not, the question occurs on amendment 495 offered by the Senator from Mississippi. The question is on agreeing to the amendment of the Senator from Mississippi.

The amendment (No. 495) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent to speak as if in morning hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CLARENCE THOMAS NOMINATION

Mr. THURMOND. Mr. President, I was pleased to meet this morning with President Bush's nominee, Judge Clarence Thomas, who has been chosen to serve as an Associate Justice of the U.S. Supreme Court. I was impressed with his intellect and keen knowledge of the law. He is a dedicated and principled individual who would be an outstanding addition to the Court.

Judge Thomas has an eminent background which I believe will serve him well as an Associate Justice of the Supreme Court. He was born in Pinpoint, GA, on June 23, 1948, and moved to Savannah where he was raised by his grandparents. In his youth, Judge Thomas overcame difficult economic conditions and excelled in his studies. He later attended the Immaculate Conception Seminary for 2 years before transferring to Holy Cross College where he was a member of the Honors Program, graduating in 1971. In 1974, he graduated from Yale Law School, one of our Nation's top schools.

In addition to his impressive academic background, Judge Thomas has practical experience which will be helpful to him in this position. Following law school, Judge Thomas worked for Senator DANFORTH, then the attorney general for the State of Missouri, as an assistant attorney general. He represented the State before the trial courts, appellate courts and the Supreme Court of Missouri on matters ranging from taxation to criminal law. From 1977 to 1979, he worked for the Monsanto Co. handling general corporate matters such as antitrust, contracts, and governmental regulation.

In 1979, he again went to work for Senator DANFORTH as a legislative assistant, responsible for issues relating to energy, environment, Federal lands and public works. President Reagan nominated Judge Thomas in 1981, to the position of Assistant Secretary for Civil Rights for the Department of Education. In 1982, he was nominated by President Reagan to be the Chairman of the U.S. Equal Employment Opportunity Commission where he served before being nominated to the circuit court.

As well, I believe it is worth noting that the Senate overwhelmingly voted to confirm Judge Thomas' nomination to the circuit court.

Mr. President, now that Judge Thomas has been selected to serve as an Associate Justice of the Supreme Court, there are those who would urge his re-

jection based solely on a preconcieved notion of how he would rule on a specific case which may come before the court. I do not believe that it is appropriate to characterize Judge Thomas as an unwavering ideologue who has made up his mind about how he would decide specific cases. To do so is unfair—unfair to Judge Thomas and the American public. Judge Thomas' background indicates that he will be sensitive to those individuals who will have their cases decided by the highest court in this Nation. As well, Judge Thomas is a young man, and once confirmed, will serve for many years on the Supreme Court. His fate should not hinge on any particular issue, when over the years he will rule on hundreds, possibly thousands of issues.

In closing, Judge Thomas acknowledges that he has been a beneficiary of the diligent work of individuals such as Justice Marshall and of others involved in civil rights efforts. I do not believe Judge Thomas will undermine the progress that has been made in this area. To the contrary, I am confident that Judge Thomas is honored to have been nominated to serve in the seat occupied by Justice Marshall. Now that President Bush has stated that he will nominate Judge Thomas, the Judiciary Committee and the full Senate will begin to thoroughly examine his background and experience for this important position. As we proceed with this process, I look forward to a swift, fair, and comprehensive review of his record.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. BIDEN. Mr. President, we have a cloture motion filed, and as of 1 hour and 4 minutes from now it would no longer be in order to file first-degree amendments to this bill. To accommodate Senators who have interest in filing first-degree amendments and do not have the time to get them in by 1 o'clock, I now ask unanimous consent that the time for filing first-degree amendments be extended until 4 p.m. today.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Delaware? If not, the time for filing first-degree amendments is extended until 4 p.m. today.

RECESS UNTIL 2:15 P.M.

Mr. BIDEN. Mr. President, to bring my colleagues and their staffs up to date Senator THURMOND and I, along with other interested parties sitting in the leadership, believe there is a way to deal with the most contentious amendments remaining. There are over 70 amendments that remain, and I suspect by the time 4 o'clock arrives there may be well above 70 amendments. So we think we have an outline as to how to proceed that would allow us to bring to a conclusion debate on this crime bill today. With the grace of God and the good will of our neighbors, we will make that.

But in order to gain approval of this proposal, the Senator from South Carolina and I have agreed on, we each believe it is appropriate for us to bring this proposal before our respective caucuses, which begin at 12:30.

Notwithstanding the fact we have not proceeded on any amendment for the last 20 minutes to a half-hour and are not likely to proceed on any between now and 2:15, notwithstanding that we will be able to make greater progress on this bill than had we been here voting the last hour and the next 2 hours, Mr. President, I ask—this has been cleared by the leadership—unanimous consent that in order to accommodate the ability of Senator THURMOND and myself to make our case to each of the caucuses, the Senate now stand in recess until 2:15.

There being no objection, at 11:58 a.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NOMINATION OF JUDGE CLARENCE THOMAS TO THE U.S. SUPREME COURT

Mr. GRASSLEY. Mr. President, now that the President of the United States has nominated Judge Clarence Thomas to the highest court of our Nation I want to speak about that but more from the standpoint of the Senate's role in the selection of a Supreme Court Justice, now that President Bush has nominated Judge Clarence Thomas for the High Court.

The Constitution gives the President the responsibility for nominating candidates for the Federal judiciary. The Senate role, spelled out in that same clause of article 2, dealing with the powers of the Executive, not the legislative branch, is to "advise and consent" to the nomination.

It is not the Senate's responsibility to second-guess, or substitute its own judgment for that of the President. The Framers envisioned that the Senate's role would be to act as a check against a President who appoints his political cronies to life-tenured judicial positions. In fact, Alexander Hamilton, in the Federalist Papers, wrote that the advise and consent role "would be an excellent check upon a spirit of favoritism in the President * * *."

While the Constitution gives the President the principle role in selecting judges for the Federal courts, including the Supreme Court, our role is to ensure that the candidates have the intellect, integrity, and temperament to serve in that high capacity particularly the high capacity of the Supreme Court. No, we are not here to be a rubber stamp for the President's nominations, but our inquiry should be focussed on the nominee's objective qualifications.

Some of my colleagues have already called for a litmus test on certain issues. But I would remind my colleagues of the deferential role the Senate has played in recent nominations. During the confirmation process for Justice Sandra Day O'Connor in 1981, for example, Senator BIDEN, now the distinguished chairman of the Judiciary Committee, said:

> We are not attempting to determine whether or not the nominee agrees with all of us on each and every pressing social or legal issue of the day.

Senator BIDEN candidly continued:

> If that were the test, no one would pass by [the Judiciary] committee, much less the full Senate.

The senior Senator from Massachusetts [Mr. KENNEDY] during that proceeding was even more direct:

> It is offensive to suggest that a potential Justice of the Supreme Court must pass some presumed test of judicial philosophy. It is even more offensive to suggest that a potential justice must pass the litmus test of any single-issue interest group.

And Senator METZENBAUM, during the floor debate preceding the vote on then-Judge O'Connor, stated:

> I believe there is something basically un-American about saying that a person should or should not be confirmed for the Supreme Court or should or should not be elected to public office based upon somebody's view that they are wrong on one issue.

Mr. President, a nominee cannot and should not answer specific policy questions. A nominee cannot and should not be asked to decide a case until that case, with all of its particular facts, presents itself.

And most importantly, the American people have nothing to fear from a judge who practices judicial restraint.

That approach gives deference to the more democratic branches of Government, our own Congress of the United States, and our own 50 State legislatures. We are elected to make the difficult decisions on matters of broad public policy. And, of course, we are accountable to the people when we take a stand, or if we fail to take a stand. In

regard to that, judges are not in that sort of position.

I want to share some of my observations about the worthy nominee the President has sent to the Senate—Judge Clarence Thomas.

Judge Thomas is not an unfamiliar individual to many of us. We confirmed him for the appellate court here in Washington, DC, a little more than a year ago. Before that, he chaired the Equal Employment Opportunity Commission for some 7 years. He got his professional start with our distinguished colleague Senator DANFORTH, first in the Missouri Attorney General's Office, and then here as a legislative assistant. He came from a poor home, a segregated community, and faced enormous obstacles. But Judge Thomas had what others do not: The support and love of his family, especially his grandfather, and dedicated teachers who instilled in him the importance of education.

Judge Thomas is a role model for all Americans, and in many ways he represents the legacy of Justice Marshall. Justice Marshall led the battle against segregation. Because of his work, Judge Thomas attended some of the finest academic institutions in this Nation and has achieved great heights.

Some will argue that his conservative views put him at odds with Justice Marshall, but Justice Marshall's legacy is also about diversity: No community, black or white, is monolithic. And Justice Marshall's fight for equality for black Americans has to encompass the right of black Americans to have their particular views on matters of public policy. Judge Thomas should not be penalized because he knows minorities can succeed without the liberal designed social-engineering so prevalent in our society.

Mr. President, I will have questions for Judge Thomas when he comes before the Judiciary Committee in September. I will reserve the right to evaluate the nominee in light of all the information that comes before us. But as I said in the previous Judiciary Committee hearing on Judge Thomas, he is a doer who has courageously defied the establishment. Along the way he may have ruffled some feathers, but that is true of anyone who has attained high achievement. He is a man to be respected and admired.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, in a moment, I intend to offer an amendment on behalf of myself and Senators HATCH, BIDEN, D'AMATO, DECONCINI, SPECTER, GRAHAM, and KERRY. To move the process forward, I will now briefly describe the amendment to be offered.

This amendment would use up to $30 million in unexpended money from the Customs Service asset forfeiture fund to support drug treatment programs. If enacted into law, it would make a modest, additional sum of money available to activities that reduce the demands for drugs, and thereby prevent crimes.

This bipartisan proposal does not take a single dollar out of the hand of law enforcement. Under current law, money that the Customs Service does not use for its own purposes reverts to the General Treasury. I believe we can make better use of this money to help fight the war on drugs.

It is appropriate that some assets seized from criminal defendants should be used for drug treatment because treatment reduces crime. Addicts who complete a treatment program are five times less likely to be arrested than those who are not afforded treatment.

In a recent landmark study, the Institute of Medicine concluded that "treatment reduces the drug consumption and other criminal behavior of a substantial number of people."

The need for drug treatment services has never been greater. Treatment is available to only one in eight addicts who need it. Tens of thousands of addicts languish on waiting lists for treatment programs, and many commit crimes to support their addiction while waiting for an opportunity to get help.

In effect, this amendment adds money for the war on drugs and provides that a modest portion of the billion dollars seized each year under the Federal forfeiture laws will be used to prevent crimes through drug treatment.

We have been advised by the Congressional Budget Office that this amendment does not violate the Budget Enforcement Act, and will not count against the budget caps. This is the intent of the sponsors of this amendment.

I ask unanimous consent a copy of the CBO letter be printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. I am grateful that the managers on both sides have indicated a willingness to accept this amendment, and I will withhold introducing the amendment until the floor manager is present on the floor.

I yield the floor.

EXHIBIT 1

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 8, 1991.

Hon. EDWARD KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: At your request, the Congressional Budget Office has reviewed a proposed amendment to S. 1241, the Violent Crime Control Act of 1991. This amendment would require that unobligated amounts in excess of $15 million remaining in the Customs Forfeiture Fund at the end of each fiscal year be transferred to the Department of Health and Human Services (HHS) and expended for drug treatment grants. Currently, such amounts are deposited into the general fund.

Based on information from the United States Customs Service, it appears that between $29 million and $30 million in the Customs Forfeiture Fund will remain unobligated at the end of fiscal year 1991, of which $14 million to $15 million will be transferred to the general fund. Under the proposed amendment, this $14 million to $15 million would instead be transferred to HHS and would result in additional direct spending of $14 million to $15 million in fiscal years 1992–1994.

Because scorekeeping estimates have to be consistent with the baseline projections, however, CBO would estimate that the proposed amendment would have no budgetary impact in any fiscal year and that there would be no pay-as-you-go scoring under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. CBO has previously estimated its baseline projections that the full amounts deposited into the Customs Forefeiture Fund in each of the fiscal years 1991–1996 will be obligated, and thus that there will be no unobligated amounts available for deposit into the general fund. If there were unobligated funds in excess of $15 million that were transferred to HHS under this amendment, it would be recorded as a technical reestimate and would not trigger any pay-as-you-go scoring by CBO. Of course, the Office of Management and Budget makes the ultimate decision on pay-as-you-go scoring for the purpose of determining whether a sequester is necessary in any particular year.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mitchell Rosenfeld, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I want to compliment the distinguished Senator from Massachusetts for this amendment. He and I—and I think everybody else in this body—realize that there is not enough money being spent on rehabilitation of drug users and drug abusers.

We are doing a lot in this crime bill to try to interdict the flow of drugs and to try to use effective law enforcement methods to bring down the force of the law as hard as we can on drug traffickers, kingpins, and other drug possessors.

The fact of the matter is that we are never going to solve this problem if all we do is look at the supply side of the equation. So, the distinguished Senator from Massachusetts and myself are filing this amendment to make sure that we look at the demand side as well. We must look at the rehabilitation of people who suffer as a result of drug addiction or drug overuse.

These asset forfeiture funds, thus far, have been used for other purposes. But

we think this is a valid, effective, worthwhile, and intelligent use of these asset forfeiture funds to the extent that we provide for their use in this amendment.

So I commend Senator KENNEDY. I support this amendment, and we are prepared to accept it on this side. I believe Senator THURMOND is prepared to speak to it.

Mr. KENNEDY. Mr. President, I thank my friend and colleague from Utah for his comments. We both serve on the Judiciary Committee, which has primary responsibility for law enforcement and sentencing legislation.

At the same time, Senator HATCH and I serve as the Chair and the ranking minority member of the Labor and Human Resources Committee, which has primary responsibility for legislation regarding the education, treatment, and rehabilitation of those who are suffering from drug addiction. So it is particularly appropriate that we work together in this very modest but important endeavor.

AMENDMENT NO. 538

(Purpose: To provide for the use of unexpended funds from the Customs Forfeiture Fund)

Mr. KENNEDY. Mr. President, I now send the amendment I have already described to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. HATCH, Mr. BIDEN, Mr. D'AMATO, Mr. DECONCINI, Mr. SPECTER, Mr. GRAHAM, and Mr. KERRY proposes an amendment numbered 538.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . USE OF UNOBLIGATED FUNDS FROM CUSTOMS FORFEITURE FUND.

Section 613A(f)(3) of the Tariff Act of 1930 (19 U.S.C. 1613b(f)(3)) is amended by striking "in excess of" and all that follows through the period and inserting "remaining in the Fund shall be utilized as follows:

"(i) The first $15,000,000 shall remain in the Fund.

"(ii) The next $30,000,000 shall be transferred to the Department of Health and Human Services and expended for drug treatment through grant programs set forth in titles V or XIX of the Public Health Services Act.

"(iii) Any remaining money shall be deposited into the general fund of the Treasury of the United States.".

Mr. THURMOND. Mr. President, we have no objection to the amendment. For the record, am I correct that it is limited to $30 million? I would like for the Senator to answer that.

Mr. KENNEDY. Will the Senator be kind enough to repeat the question?

Mr. THURMOND. I say we have no objection to the amendment, but I want the record to show that the amendment is limited to $30 million; is that correct?

Mr. KENNEDY. The Senator is correct.

The PRESIDING OFFICER. Is there further debate?

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there is no further debate, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (No. 538) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the role.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. FOWLER]. Without objection, it is so ordered.

The Senator from South Dakota is recognized.

Mr. DASCHLE. Mr. President, I ask unanimous consent to proceed for 5 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Dakota is recognized.

Mr. DASCHLE. I thank the Chair.

(The remarks of Mr. DASCHLE pertaining to the introduction of S. 1438 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, by way of explanation to my colleagues, we have been for the last 5 hours negotiating in great detail and with, we thought to be, all the principals involved in the issues that I am about to propound a unanimous-consent agreement regarding; that is habeas corpus, exclusionary rule, and a range of other issues.

If we can get this unanimous-consent agreement, Senator THURMOND, Senator HATCH, myself, Senator MITCHELL, and others believe we would take a giant step toward passing this bill, and in very short order.

I am told there may be an objection, but, nevertheless, I am going to propound the unanimous-consent agreement at this moment and hope that there would be no objection because, once again, this has been a bill that we have been told by everyone, particularly the President, is badly needed. As a matter of fact, a White House spokesman, as recently as today, indicated the President likes the bill and is prepared to sign the bill if it were in this form. I hope we can move on with this. Let me proceed and propound the unanimous-consent request.

UNANIMOUS-CONSENT REQUEST

Mr. BIDEN. Mr. President, I now ask unanimous consent that title XXII of S. 1241 relating to organized crime strike forces be stricken from the bill; that no further amendments related to the topics of habeas corpus reform, exclusionary rule reform, and the removal of alien terrorists be in order to this bill; that the Specter-Thurmond amendment No. 472 relating to prosecution funding be agreed to; that Senator THURMOND then be recognized to offer an amendment relating to the police bill of rights with 1 hour of debate equally divided and controlled in the usual form, with a vote on the Thurmond amendment to occur on the expiration of the time on the amendment; that no amendment to the above amendments or to any text they propose to strike or motions to recommit be in order during the Senate's consideration of the above amendments.

That is my unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, we have no objection.

Mr. STEVENS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Alaska reserves the right to object.

Mr. STEVENS. Mr. President, on behalf of myself and several other Members on this side, I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. BIDEN. Mr. President, I liked it better when my friend from Alaska said "reserving the right to object." It got my hopes up for a moment that he might not object.

I hope, Mr. President, that we can move on.

UNANIMOUS-CONSENT AGREEMENT

Mr. BIDEN. Mr. President, I then ask the following: I ask unanimous consent

that Senator THURMOND be recognized now to offer an amendment relating to the police bill of rights with 1 hour of debate equally divided and controlled in the usual form and with a vote on the Thurmond amendment to occur at the expiration of that time; that no amendments to the above amendment or that any text they propose to strike or motions to recommit be in order during the Senate's consideration of the Thurmond amendment.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object. May I have one moment?

I withdraw my reservation.

The PRESIDING OFFICER. Hearing no objection, the unanimous-consent request is adopted.

The Senator from South Carolina [Mr. THURMOND] is recognized under the agreement to offer an amendment.

AMENDMENT NO. 486

Mr. THURMOND. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 486.

Mr. THURMOND. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER [Ms. MIKULSKI]. Without objection, it is so ordered.

The amendment is as follows:

Strike page 114, line 13 through page 122, line 2, and in lieu thereof insert the following:

SEC. 901. SHORT TITLE.

This title may be cited as the "Police Officers' Bill or Rights Act of 1991".

SEC. 902. RIGHTS OF LAW ENFORCEMENT OFFICERS.

Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by adding at the end thereof the following new section:

"RIGHTS OF LAW ENFORCEMENT OFFICERS

"SEC. 819(a) RIGHTS OF LAW ENFORCEMENT OFFICERS WHILE UNDER INVESTIGATION.—The States shall give consideration to adopt the standards and requirements contained in this section. These standards may require that when a law enforcement officer is under investigation or is subjected to questioning for any reason, other than in connection with an investigation or action described in subsection (h), under circumstances that could lead to disciplinary action, the following minimum standards apply:

"(1) Questioning of the law enforcement officer shall be conducted at a reasonable hour, preferably when the law enforcement officer is on duty, unless exigent circumstances otherwise require.

"(2) Questioning of the law enforcement officer shall take place at the offices of those conducting the investigation or the place where such law enforcement officer reports for duty unless the officer consents in writing to being questioned elsewhere.

"(3) The law enforcement officer under investigation shall be informed, at the commencement of any questioning, of the name, rank, and command of the officer conducting the questioning.

"(4) During any single period of questioning of the law enforcement officer, all questions shall be asked by or through a single investigator.

"(5) The law enforcement officer under investigation shall be informed in writing of the nature of the investigation prior to any questioning.

"(6) Any questioning of a law enforcement officer in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest of personal necessities of the law enforcement officer.

"(7) No threat against, harassment of, or promise of reward (except an offer of immunity from prosecution) to any law enforcement officer shall be made in connection with an investigation to induce the answering of any question.

"(8) All questioning of any law enforcement officer in connection with the investigation shall be recorded in full in writing or by electronic device, and a copy of the transcript shall be made available to the officer under investigation.

"(9) The law enforcement officer under investigation shall be entitled to the presence of counsel (or any other person of the officer's choice) at any questioning of the officer, unless the officer consents in writing to being questioned outside the presence of counsel.

"(10) At the conclusion of the investigation, the person in charge of the investigation shall inform the law enforcement officer under investigation, in writing, of the investigative findings and any recommendation for disciplinary action that the person intends to make.

"(11) A law enforcement officer who is brought before a disciplinary hearing shall be provided access to all transcripts, records, written statements, written reports and analyses and video tapes pertinent to the case that—

"(A) contain exculpatory information;

"(B) are intended to support any disciplinary action; or

"(C) are to be introduced in the disciplinary hearing.

"(b) OPPORTUNITY FOR A HEARING.—(1) The States shall give due consideration to proposals which ensure that, except in a case of summary punishment or emergency suspension described in subsection (d), if an investigation of a law enforcement officer results in a recommendation of disciplinary action, the law enforcement agency shall notify the law enforcement officer that the officer is entitled to a hearing on the issues by a hearing officer or board.

"(2)(A) Subject to subparagraph (B), a State shall determine the composition of any such disciplinary hearing board and the procedures for a disciplinary hearing.

"(B) A disciplinary hearing board that includes employees of the law enforcement agency of which the officer who is the subject of the hearing is a member shall include at least one law enforcement officer of equal or lesser rank to the officer who is the subject of the hearing.

"(d) SUMMARY PUNISHMENT AND EMERGENCY SUSPENSION.—(1) This section does not preclude a State from providing for summary punishment or emergency suspension for misconduct by a law enforcement officer.

"(2) An emergency suspension will not affect or infringe on the health benefits of a law enforcement officer.

"(e) NOTICE OF DISCIPLINARY ACTION.—When disciplinary action is to be taken against a law enforcement officer, the officer shall be notified of the action and the reasons therefor a reasonable time before the action takes effect.

"(f) RETALIATION FOR EXERCISING RIGHTS.—There shall be no penalty or threat of penalty against a law enforcement officer for the exercise of the officer's rights under this section.

"(g) OTHER REMEDIES NOT IMPAIRED.—(1) Nothing in this section shall be construed to impair any other legal remedy that a law enforcement officer has with respect to any rights under this section.

"(2) A law enforcement officer may waive any of the rights guaranteed by this section.

"(h) APPLICATION OF SECTION.—This section does not apply in the case of—

"(1) an investigation of criminal conduct by a law enforcement officer; or

"(2) a nondisciplinary action taken in good faith on the basis of a law enforcement officer's employment-related performance.

"(i) DEFINITIONS.—For the purpose of this section—

"(1) the term 'disciplinary action' means the suspension, demotion, reduction in pay or other employment benefit, dismissal, transfer, or similar action taken against a law enforcement officer as punishment for misconduct;

"(2) the term 'emergency suspension' means temporary action imposed by the head of the law enforcement agency when that official determines that the action is in the best interest of the public;

"(3) the term 'summary punishment' means punishment imposed for a minor violation of a law enforcement agency's rules and regulations that does not result in disciplinary action;

"(4) the term 'law enforcement agency' means a public agency charged by law with the duty to investigate crimes or apprehend or hold in custody persons charged with or convicted of crimes; and

"(5) the term 'law enforcement officer' means a full-time police officer, sheriff, or correctional officer of a law enforcement agency.

"(j) PROHIBITION OF ADVERSE MATERIAL IN OFFICER'S FILE.—A law enforcement agency shall not insert any adverse material into the file of any law enforcement officer unless the officer has had an opportunity to review and comment in writing on the adverse material.

"(k) DISCLOSURE OF PERSONAL ASSETS.—A law enforcement officer shall not be required or requested to disclose any item of the officer's personal property, income, assets, soruces of income, debts, personal or domestic expenditures (including those of any member of the officer's household), unless

"(1) the information is necessary in investigating a violation of any Federal, State, or local law, rule, or regulation with respect to the performance of official duties; or

"(2) such disclosure is required by Federal, State, or local law.

"(l) ENFORCEMENT OF PROTECTIONS FOR LAW ENFORCEMENT OFFICERS.—(1) A State may provide rights for law enforcement officers that are substantially similar to the rights afforded under this section.

"(m) STATES' RIGHTS.—This section does not preempt State law or collective bargaining agreements or discussions during the collective bargaining process that provide rights for law enforcement officers that are substantially similar to the rights afforded by this section.".

Mr. THURMOND. Madam President, today, I rise to offer an amendment which will make some revisions to title IX of the pending bill. This provision of the Biden bill proposes to establish a police officers' bill of rights. While I believe the rights of law enforcement officers must be provided for, this proposal simply goes too far by imposing strict requirements on State and local law enforcement officials. This measure mandates that all States afford certain rights to law enforcement officers in all disciplinary proceedings. My amendment makes adoption of this proposal discretionary.

Although this legislation's proponents speak about this legislation in terms of constitutional rights, it has absolutely nothing to do with constitutional rights. It has nothing to do with the right of an officer to be free from violence at the hands of criminals. It has nothing to do with the right to be free from unjust criminal prosecution. However, it has everything to do with labor and management. Simply stated, this proposal is an effort to push through Congress additional rights for officers which the States have chosen not to provide. The Biden measure gives law enforcement officers substantial control over how their respective law enforcement agency is run. It would have a disruptive effect on the ability of law enforcement agencies to do their job.

The Biden bill mandates that the States provide certain benefits to all officers when they could face disciplinary action. It mandates that discovery rights and the right to counsel be provided to all officers in cases which could result in any disciplinary action. It also requires that every State create a law enforcement grievance commission to review all disciplinary action. The effect on this may well turn every police department into a courthouse as opposed to a law enforcement agency.

Briefly, I would like to discuss some of the specific problems cited by opponents of this legislation, including the International Association of Chiefs of Police and the National Sheriff's Association. First, the Biden version of the police officer's bill of rights would federalize local law enforcement. For example, it will override existing State laws which may provide similar or greater rights to officers. It also second guesses those States which have closely examined this issue, deemed their current procedures adequate, and chosen not to enact such a law. Yet, this proposal is in the Biden bill even though no hearings have been held on this legislation—neither here nor in the House. We should give all interested parties the opportunity to consider this proposal before it passes the Senate.

Madam President, the bill would also alter carefully balanced collective-bargaining agreements between police agencies and police unions. This measure unilaterally changes existing agreements on such sensitive matters as investigative procedures, the ability of the police chief to discipline members of his force, and the composition and function of disciplinary panels.

Madam President, all officers would be entitled to have a lawyer present at all times. Remember, these are not criminal investigations this bill is addressing. The officer would have the right to an attorney if his chief wanted to reprimand him for continued tardiness. The agency could only conduct questioning with one officer. All discussions would have to be recorded. No action could be taken against the officer until he had a hearing before a board comprised, in part, of fellow officers. While some ideas may have merit, should the Federal Government impose these requirements upon the States? My answer is no.

Furthermore, the bill subjects the States to civil liability for failing to adequately provide these rights and withholds Federal grant money if they fail to enact such a statute. At a time when State and local governments are faced with truly disastrous fiscal problems, this bill subjects them to greater liability and takes away funds which are being used to fight crime.

Madam President, my amendment urges the States to consider enacting a bill of rights. It recognizes that some legislatures may deem these procedures preferable to their own current law. Yet, the Thurmond amendment makes clear that the decision to extend these disciplinary rights to law enforcement is discretionary—not a mandatory requirement imposed on the States and local communities by the Federal Government.

I strongly believe that the right to exercise discipline over law enforcement officers who act inappropriately must remain with the chief executive of that department. Yet, if the States, either through legislation or through collective bargaining, choose to change the current system, that is their decision. I strongly believe Congress should not interfere and pass the far-reaching legislation contained in S. 1241. Federally mandated rights for officers who are the subject of improper activity would seriously impinge upon the chief executives necessary control over his force. If the Biden measure were to become law, every agency, no matter how small, would be subjected to these disciplinary rights. Every disciplinary action, no matter how minor or serious, would be further complicated by these added rights. If this legislation became law, executives would be restrained from taking appropriate disciplinary action against officers who may commit serious offenses—such as those who beat Rodney King in Los Angeles.

In closing, the bill of rights language in the Biden bill is strongly opposed by law enforcement at all levels. The International Association of Chiefs of Police opposes the Biden measure. The National Sheriff's Association opposes it as well. Police commissioners, chiefs, and sheriffs all across the Nation oppose this bill—including Lee Brown, the police commissioner of New York City. My amendment encourages the States to consider such a proposal. However, it recognizes that the decision on how to discipline officers must rest with those who are responsible for fighting crime—the States themselves.

For these reasons, I strongly urge my colleagues to support the Thurmond amendment.

Madam President, the Senate earlier today, by a vote of 55 to 39, turned back a proposal that would have mandated States to do certain things. This is a similar amendment. If the Members of the Senate voted today for the Thurmond amendment on that question, this is a similar amendment.

It is high time that this Federal Government stop trying to mandate to the States what to do.

They have just as much right, just as much intelligence, and just as much responsibility to perform their duties without regard to the Federal Government mandating it on them.

I want to say further if a chief of police or a sheriff or those in charge cannot discipline their own people because they are late or some other crime, who is going to do it? Are you going to have a lawyer present every time they call a man in and say you are late and you have been late 10 days straight?

Are you going to have to have a lawyer come in? Will you have to have a commission to hear it? Madam President, it just does not make sense.

I hope the Senate will see fit to adopt this amendment.

Mr. BIDEN. Madam President, I know no one on the floor in the U.S. Senate who is more a friend of the police officers of this country than the Senator from South Carolina. But I think that the Senator from South Carolina and others—because I have read some news accounts of my proposal here in the bill—misunderstand a little bit of what the policemen's bill of rights contained in the Biden crime bill really does.

Let me start off by suggesting what the so-called policemen's bill of rights does not purport to do and does not do. I read in the press and I heard today that the example of the police activity relating to Rodney King would require the bill or rights to be kicked into effect and counsel provisions and other aspects of the bill be required to be adhered to. That is not true. This does not affect any criminal accusations made against any police officer. It does not affect that.

This does not affect collective bargaining. This does not affect cases where we have circumstances where

there is anything other than an egregious violation of the rights of a police officer.

Let me tell you the kind of thing it does affect. Sheriff, in town, been in town for years. New deputy sheriff gets hired on, deputy sheriff arrests and/or tickets the wrong guy—the right guy in the sense that he is parked in the wrong place or violating the law but the wrong guy. And he gets fired for that. He just gets fired—no reasonable explanation, no good cause. That is the kind of thing this affects.

On page 119 of the legislation, subsection (h), it says Application of Section. It says this section does not apply in the case of, one, an investigation of criminal conduct by a law-enforcement officer. It does not apply. This bill does not apply. It also does not apply in cases of nondisciplinary action taken in good faith on the basis of a law-enforcement officer's employment-related performance. It does not apply.

It applies in those egregious circumstances that I have made reference to. The policy officers' bill of rights provides procedural standards and safeguards for the conduct of internal investigation in law-enforcement agencies and, despite the critical role police officers play in upholding our constitutional rights and guarantees, internal disciplinary procedures in law-enforcement agencies vary widely from agency to agency, county to county, and State to State.

The rights guaranteed by this bill include, one, the right to be informed in writing of charges brought against the police officer, not an unusual or outrageous requirement; two, the right to have counsel present during interviews in the course of an investigation that is not criminal and an investigation that is not related to normal employment-related performance.

These safeguards are modeled on the Stantards for Internal Investigations established by the National Commission on the Accreditation of Law Enforcement Agencies. The bill, however, reserves substantial rights for the States. The protections do not apply to minor violations of department rules, nor to actions taken on the basis of an officer's job-related performance. It does not apply in either of those circumstances.

Also, as I said for the third time, the bill does not apply to criminal investigations. Police officers under criminal investigation would have the same rights, no more, no less, than any other criminal defendant. Any police officer whose rights are violated could recover pecuniary and other damages, including reinstatement, by filing suit in a State court.

Police officers whose rights are violated would be authorized to recover pecuniary or other damages including reinstatement, by filing suit in a State court.

I want to emphasize again, Madam President, the police officer's bill of rights that I have included in my legislation would not apply to criminal investigations of police misconduct. I want that canard to be dealt with. It does not apply in those circumstances. It applies in the circumstance in situations other than job performance, where you have a tyrannical and/or capricious management of a police agency and people are summarily dismissed or suspended, that they in fact be protected, and they be given the right to know in writing what the charges are against them as well as have counsel there to protect their rights, which are being abused.

So, Madam President, I ask unanimous consent that there be printed in the RECORD letters from the Law Enforcement Grand Lodge of Fraternal Order of Police, the FOP's endorsement. I will not take the time now to read the letter, but they very strongly endorse the bill of rights that I am proposing and oppose the Thurmond amendment.

The National Association of Police Organizations strongly supports what I am proposing and strongly opposes what the Senator from South Carolina is proposing.

The International Brotherhood of Police Officers strongly supports what I am proposing and strongly opposes Senator THURMOND'S approach.

The Patrolmen's Benevolent Association strongly supports what I am proposing and opposes the Thurmond amendment.

I did not bother to go through the number of police officers represented, but for example the FOP represents over 220,000 police officers in this country, strongly in support of the Biden bill of rights and strongly opposed to the Thurmond attempt to amend it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FRATERNAL ORDER OF POLICE,
Columbus, OH, June 25, 1991.

Hon. JOHN CHAFEE,
U.S. Senate, Washington, DC.

DEAR SENATOR CHAFEE: On behalf of more than 220,000 members, of the National Fraternal Order of Police, I am writing to urge your support of S 1043, the Police Officers Bill of Rights (POBR). This important legislation has been introduced by Senator Joe Biden and is attached to the Crime Bill. The POBR will provide officers with due process for administrative violations and more importantly define procedures for a law enforcement agency to follow. For to long officers have faced disciplinary action without due process. This type of atmosphere allows for selective discipline to occur.

To us in the law enforcement field this is a sensible piece of legislation who's time has come for passage. Throughout our country, there are prisoner's, victim's, and disabled person's bills of rights established, while at the same time few police officer's bill of rights exist.

Congress has gone to great lengths to insure that citizens and workers are treated fairly and equitably, but has overlooked the police in these debates, You now have the opportunity to ensure fair and equitable treatment for police officers by supporting S. 1043. There are administrators who will urge you not support this legislation by casting a cloud over the issue of due process by citing the unfortunate events that occurred in Los Angeles. As previously stated, this legislation provides due process for administrative violations only and not criminal investigations or charges.

Your favorable consideration this matter is appreciated.

Respectfully,

DEWEY R. SOKES,
President.

NATIONAL ASSOCIATION OF
POLICE ORGANIZATIONS, INC.,
Washington, DC, June 25, 1991.

DEAR SENATOR: On behalf of the more than 130,000 rank-and-file police officers represented by the National Association of Police Organizations (NAPO), I am writing to urge your support for S. 1043, the Police Officer's Bill of Rights (POBR), which has been incorporated as Title IX of S. 1241, the so-called Biden Crime Bill.

I wrote you on June 14, 1991, with regard to NAPO's endorsement of POBR as well as its support for the Brady Bill and the Law Enforcement Officer's Scholarship Act, which are also contained in the Biden Crime Bill. NAPO stands behind its original endorsements of these measures and wishes to reaffirm them as the Senate resumes consideration of the Crime Bill this week.

An additional reason for this letter is that I have been advised that the International Association of Chiefs of Police (IACP) has asked you to delete POBR from the Crime Package. Accordingly, I would be remiss in my obligations and responsibilities to our membership if I were to permit the IACP's claims to go unrebutted.

In its June 21, 1991 letter to you, the IACP, in support of its position, claims that "[l]aw enforcement, by its very nature, is a matter of local concern, not Federal concern." This, to say the least, is a "head in the sand" approach which ignores the fact that crime in America has become of major national importance and takes up a substantial amount of the attention of Federal elected officials, lawmakers, and administrators. Further, State and local law enforcement have been the beneficiaries of substantial Federal assistance in recent years and have benefited from Federal grants, asset forfeiture payments, information and technology sharing, Federal law enforcement training and benefits for survivors of police officers killed in the line of duty. Also, State and local law enforcement are significantly subject to Federal constitutional limitations and restraints in such areas as permissible searches and investigatory techniques. Therefore, for the IACP to claim that enactment of the POBR would wrongfully "federalize local law enforcement" is utterly disingenuous since police management has been only too willing to seek and accept Federal help when it suits its purposes.

The IACP's additional assertion that POBR "would inevitably weaken the ability of police executives to discipline police officers for acts of serious misconduct," is equally spurious. All POBR would do would be to establish minimal standards of due process for administrative violations so as to reduce the potentiality of arbitrary, capricious and selective discipline occurring within police ranks. POBR would not apply at all

to violations of criminal laws or emergency suspensions.

As to the IACP claim that there is "seriously potential" that POBR would alter "carefully balanced collective bargaining agreements between police agencies and police unions," it is totally without foundation. For one thing, the Bill expressly declares that it does not preempt the provisions of collective bargaining agreements. Moreover, the thrust of the legislation is to provide rights for police officers in that majority of States in which there is not right to collective bargaining for police officers.

As to the IACP complaint regarding "civil liability," the fact is that the only such liability as might occur under POBR would be in connection with those States that do not have or adopt provisions substantially equivalent to POBR as is required under the law. Hence, each and every State is in a position to avoid any Federal civil liability by having on its books a law comparable to POBR.

Further, contrary to the IACP's claim, POBR in no way seeks to remove from the "chief executive of [a] department" the right to "exercise discipline over law enforcement officers." All POBR would do would be to assure that discipline is imposed fairly and in accordance with procedural due process.

Finally, it is deeply shocking that the IACP would assert that the proposed legislation is "unwise and untimely, particularly in light of the notorious police beatings we recently witnessed in Los Angeles." To punish all of the half million decent, law-abiding and hard-working police officers in the United States for the wrongs of a few is suggestive of precisely the arbitrary attitude on the part of police management that POBR proposes to overcome.

Accordingly, NAPO urges you to adopt POBR as it is presently constituted in the Biden Crime Bill so as to demonstrate your support for the basic right of America's police rank-and-file to procedural fairness.

Sincerely yours,

ROBERT SCULLY,
President.

INTERNATIONAL BROTHERHOOD
OF POLICE OFFICERS,
Arlington, VA, June 25, 1991.

Hon. JOSEPH BIDEN,
U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: The International Brotherhood of Police Officers is an affiliate of the Service Employees International Union, the fifth largest union in the AFL-CIO. On behalf of the 40,000 rank and file state and local police officers that IBPO represents, I am writing for your support for the "Police Officers' Bill of Rights Act of 1991", which is contained in Title IX of S. 1241.

Title IX addresses two areas of fundamental concern to law enforcement officers and indeed all Americans: political activity rights and due process rights. First of all, Title IX allows officers to participate fully in the political process except while on duty or acting in an official capacity. IBPO believes that police officers, like any other citizen, should be afforded their first amendment rights to participate in the political arena on their own time.

Secondly, Title IX extends due process rights to officers under internal investigation for administrative violations. Currently, many state laws prevent police officers from receiving these protections usually accorded by collective bargaining agreements. Police officers, because of the nature of their work, are frequently the subject of harassing complaints. Too often, adequate due process rights are not afforded to police officers during internal investigations into possible misconduct. Title IX remedies this unfortunate situation by providing all officers with basic, fundamental due process protections.

Some police management organizations have argued that this bill would weaken or destroy existing collective bargaining agreements, or weaken police executives authority to discipline officers. Both of these claims lack merit. The Police Officers' Bill of Rights, introduced by Senator Biden as part of his omnibus crime package, only provides due process protections to police officers under scrutiny for administrative violations. Title IX of S. 1241 creates minimum standards for officers under investigation that would ensure a fair appraisal of his or her case. These standards include the right to be questioned at a reasonable time and place, by a single investigator. In addition, officers would have the right to representation by counsel and the right to advance written notice of the nature of the investigation prior to any questioning. In addition, the provisions of the bill explicitly provide that existing collective bargaining agreements are not preempted.

IBPO firmly believes that police officers, who are expected to uphold the public trust given to them, must be fully accountable for their actions when, on occasion, that trust is betrayed. However the Police Officers' Bill of Rights in no way attempts to excuse, delay, or de-emphasize the responsibilities that police officers accept when joining the force. Title IX specifically does not preclude a State from providing for a summary punishment (punishment for a minor violation of rules and regulations that does not result in disciplinary action) or an emergency suspension for misconduct by a law enforcement officer. Moreover, Title IX does not apply in an investigation of criminal conduct by a law enforcement officer.

Therefore, arguments that may be heard on the Senate floor regarding the recent incident in Los Angeles will not apply. No one condones the actions that occurred in this isolated incident. However, attempting to use the Los Angeles incident as a means to denying rank and file police officers due process rights is misleading when the provisions of the Police Officers' Bill of Rights would not apply when an officer is placed on emergency suspension or when the investigation of the officer involves possible criminal conduct.

In summary, IBPO believes that in order to foster increased police professionalism at each level, from the rookie cop to the chief of the department, law enforcement officers must be afforded due process rights when under investigation for administrative violations. In addition, the political activity of police officers should not be limited when the officer is off-duty. Therefore, I urge you to stand with the rank and file officers of this country and support the Police Officers' Bill of Rights by opposing any motions to strike Title IX from the crime bill.

Sincerely,

KENNETH T. LYONS,
National President.

PATROLMEN'S BENEVOLVENT ASSOCIATION OF THE CITY OF NEW YORK, INC.,
New York, NY, June 25, 1991.

DEAR SENATOR: On behalf of the New York City Patrolmen's Benevolent Association, the oldest and largest police organization in the United States, representing 20,000 active and 15,000 retired police officers, we would like to enlist your support for Senate Bill #1043, which is currently being deliberated by the U.S. Senate.

The major thrust of this proposed legislation would grant to police officers across the nation the same fundamental Constitutional privileges accorded to all American citizens—including the most insipid, violent criminal imaginable. It is truly one of the ironies of our great democracy that some of the nation's police officers continue to be relegated to a status of second-class citizenship induced by an administrative denial of Constitutional freedoms.

Whereas police officers must fastidiously observe every basic Constitutional guaranty, such as the right of a suspect to remain silent, and the right of a suspect to have adequate legal representation, they themselves are arbitrarily stripped of those guaranties by police chiefs who wield an absoltute power to suspend and dismiss any officer who dares to invoke his/her rights in any investigation involving some controversial action taken by an officer, particularly where deadly physical force was used.

I need not dramatize too emphatically the fact that police officers, in the climate extant in our society, play a vital role, a role fraught with legal, political and social complexities that have made the police job both difficult and dangerous to perform, even in areas that formerly were characterized as tranquil settings. This sad commentary on the deteriorating quality of life on America's streets has been fostered by the triple menaces of drug dealing, illegal gun proliferation and a propensity for violence.

And police officers, who form America's first line of defense, must daily, at great risk of life, cope with the sheer intensity of this triple threat societal phenomenon. In waging the war on crime that is sweeping across virtually every sector of the nation, the police are sustaining a terrible toll: Often they are wounded; often they must pay the supreme sacrifice; often they are wrongfully castigated for alleged acts of brutality.

Self-styled political activists have sprung up in just about every community, particularly in troubled urban centers, and they—for self-serving motivation—have fomented unrest. For obvious reasons, the police, readily observed as the pawns of society, remain the principal target of these political agitators. Now, more then ever, when police find themselves under constant attack, they need to be afforded basic legal protection that can only be accomplished through federal legislation.

This is so because police administrators, whose very existence is created and sustained by political action, are influenced more by political currents than by a sense of fairness and objectivity when it comes to meeting out justice for police officers brought up on controversial charges. Overzealous district attorneys have similar political inclinations due to pressures brought to bear on their office.

It is indeed shameful that police administrators and district attorneys in certain parts of the country possess unassailable dictatorial power, a power that has allowed them to sacrifice police officers on the altar of political activism. Since the mid sixties, police officers in New York City have enjoyed the protection of a contractually guaranteed Bill of Rights, and this argreement has worked well in terms of conducting investigations of police actions in an atmosphere that observes adequately the rights of police officers and management, or any

other investigative authority. Our police brothers and sisters throughout the nation are entitled to the same protection. Please support Senate Bill #1043, and join the effort to grant police officers the same rights that criminals already have.

Sincerely,

PHIL CARUSO,
President.

Mr. BIDEN. Madam President, the representation here of the organizations that I have just read off I am informed by staff represents over 400,000 police officers in this country. There are only roughly 500,000 police officers in this country.

It is long overdue, Madam President, that we give police officers the basic civil rights that they are entitled to, that other people are entitled to, that Federal employees are entitled to; that other people who are summarily dismissed and significant actions taken against them be able to at least know in writing what the charge is, and have to explain what the charge is and defend what the charge is with that person being able to be adequately represented at the time.

I reserve the remainder of my time, Madam President.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Madam President, I suggest the absence of a quorum and ask that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Madam President, there has been references on and off the floor that the proposal that I have in my legislation would supersede States rights.

Madam President, if there is an agreement, a procedure similar at all to what is being proposed in the policeman's bill of rights in the States in place, the State law supersedes, not the Federal law, the State law supersedes. This does though affect States where there is no protection whatsoever.

Again, I reiterate: This does not affect cases that involve normal job performance, nor does it affect matters where there is a criminal charge being investigated or case pending against a police officer in neither of those instances. It affects those cases where the caprice or the absolutely inexplicable conduct of a civilian or police officer in dismissing or penalizing a police officer on the force is done so without explanation and without opportunity for that police officer to make his case.

So, Madam President, I just wanted to reiterate that point.

I reserve the remainder of my time.

Mr. THURMOND. Madam President, I yield to the distinguished Senator from Wyoming such time as he may require.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Madam President, I commend the two managers of this bill for their work and what they are trying to do which is obviously having more difficulty for them and that, of course, is not directed to this amendment.

I do concur with Senator THURMOND here. This police officers' bill of rights was a very crisply presented, good idea. I think in the beginning and over the months it has kind of encrusted itself with some remarkable things which I think do intrude on the States. I concur with him.

I think that indeed we all know the rights of law enforcement officers have to be provided for. I think this simply goes too far. By imposing these strict requirements on the State and local enforcement officials, the measure mandates or requires that all States afford certain rights to law enforcement officers in all disciplinary proceedings. And I agree with Senator THURMOND that you are going to turn police stations into courthouses if you can really take this one to its ultimate result. I do not think that is the appropriate thing to do.

So, I would certainly support Senator THURMOND, and I would in this particular amendment. I hope that, as the hours roll on with regard to this crime bill which is a critically important piece of legislation, with perhaps the threat of the Thursday crunch, and there is obviously difficulty in meeting the need to do work on Friday, and I understand that fully, and we appreciate that deference when that is extended to us, but it is an important measure, and we can revisit again and again and again the issues of death penalty, exclusionary rule, habeas corpus, gun issues. There is nothing more volatile in my State than revisiting gun issues. I said time and again the issue of gun control in Wyoming is simply how steady you hold your rifle and nothing more. And it is not some vestige of red necks, or people who like to kill.

In fact, we really do not have a lot of killing of one another in Wyoming. We have really no restrictions on firearm ownership. Here in the District of Columbia where they have the strictest possible gun control legislation—and they seem to have made that a most extraordinary part of this community's life, a sad one—and that is death and murder in extraordinary amounts.

So, if we can pull ourselves back to the issues, I will certainly continue to try to work with the two managers and those who want to get a thoughtful crime bill and then get something that will work that we can use in conference. I hope that we will do much better in conference than we did the last time where the House conferees simply rejected every single shred of the House bill. I have never seen that in all my activities in conference, and I have had some good ones, some rather rich ones, but never one like that, where there was simply an absolute rejection of what their own Members of their own majority party and many of the minority party had put together. We cannot afford that. We certainly want to get our vehicle prepared and over to them.

And I thank the managers.

Mr. THURMOND. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Madam President, how much time do we have?

The PRESIDING OFFICER. The Senator from South Carolina has 13 minutes and 28 seconds. The Senator from Delaware has 19 minutes and 45 seconds.

Mr. THURMOND. Madam President, I yield 7 minutes to the distinguished Senator from Utah, if he requires that much time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Thank you, Madam President, and I thank my colleague from South Carolina for his kindness.

Madam President, I rise in support of Senator THURMOND's amendment which reasonably modifies title IX of this bill, the "police officers' bill of rights of 1991." That title currently imposes very stringent and detailed Federal requirements on State and local law enforcement agencies when they seek to investigate incidents of alleged misconduct by police officers. The Thurmond amendment gives States the option to accept or not accept these requirements.

Again, Senator THURMOND does not believe in mandating these requirements on the backs of the States. We have too many mandates coming down from the Federal Government and that is really what is wrong. The States just simply cannot meet all these mandates. And so Senator THURMOND has a reasonable approach that says States will have the option to accept or not accept these requirements. But at least they will have the choice. We just cannot continually tell them what they can do.

No Senator has been more vocal than I in supporting law enforcement officers around this Nation and throughout every State in the Nation, particularly in efforts to allow them to do their jobs in the most effective and

unencumbered way possible. Further, if law enforcement officers are questioned about their own alleged wrongdoing or that of their fellow officers, certain procedural protections may be appropriate.

But, many of our law enforcement officers are represented by strong and effective unions who, working with management, representatives and officials at the State and local level, are better positioned than we here at the Federal level to develop detailed procedures and protections for questioning employees during investigations.

Title IX, in its current form, is an extreme example of a congressional mandate that seeks to micromanage personnel policies and practices at the worksite. The eight pages of this title read like a local personnel manual or a collective bargaining agreement. They consist of detailed requirements regarding the time, place, content of, and participants in, any questioning, formal or informal, of any law enforcement officer. The questioning may be for "any reason under circumstances that could lead to disciplinary action," against the officer being questioned or a fellow officer. And the disciplinary action could be as minor as a 1-day suspension. Most significantly, a material violation of any of these requirements entitles the law enforcement officer whose conduct may clearly warrant disciplinary action up to and including discharge, to full reinstatement and damages in State court.

Madam President, I have often opposed efforts to unnecessarily tie the hands of our law enforcement officers when they are trying to do their jobs. I cannot at the same time support a new Federal mandate that ties the hands of our law enforcement agencies to investigate allegations of wrongdoing by fellow law enforcement officers and to take appropriate disciplinary action. If the procedures currently followed by certain State or local law enforcement agencies are believed to be inadequate, then changes should be proposed, discussed, and debated at that level. No case has been made that I am aware of for congressionally mandated personnel policies governing the questioning of local law enforcement employees.

I would, therefore, urge that Senator THURMOND's amendment, which leaves matters of this kind where they ought to be, at the State level, be adopted.

Finally, Madam President, I ask unanimous consent that a letter from the police commissioner of the city of New York, who is also president of the International Association of Chiefs of Police, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE POLICE COMMISSIONER,
City of New York, June 21, 1991.

Hon. JOSEPH BIDEN,
Senate Judiciary Committee,
Washington, DC.

DEAR SENATOR BIDEN: I am writing to urge you, in the strongest possible terms, to delete the Police Officer's Bill of Rights, S. 1043, from the crime package which you have introduced.

I urge you to take this action on behalf of the New York City Police Department and on behalf of the International Association of Chiefs of Police, of which I am President.

Law enforcement, by its very nature, is a matter of local concern, not federal concern. The Police Officer's Bill of Rights would federalize local law enforcement and would upset carefully balanced interests that have served law enforcement and the community well.

For example, the Police Officer's Bill of Rights would introduce federal rights of "discovery" into disciplinary proceedings within all police departments. We have made significant progress over the years toward professionalizing the police forces of our communities, by holding police officers to a high level of accountability for their misconduct. We have done this in large measure by developing disciplinary proceedings that are fair and balanced. There is no need for a federally imposed right of discovery that would inevitably weaken the ability of police executives to discipline police officers for acts of serious misconduct.

As a second example, I would point to the serious potential of this federal legislation for altering carefully balanced collective bargaining agreements between police agencies and police unions. The Police Officer's Bill of Rights would unilaterally alter existing collective bargaining agreements on such sensitive matters as investigative procedures regarding allegations of misconduct, the responsibility of the chief of police to discipline members of his force, and the composition and function of diciplinary panels.

As a third example, I would cite the Bill's provisions regarding civil liability. At a time when state and local governments are reeling under fiscal constraints, it seems unwise to created federal rights of police officers to recover pecuniary and other damages against law enforcement agencies. Similarly, it seems totally inappropriate for the Congress to create federal rights of reinstatement for police officers, thereby overriding state laws on these matters.

As the chief executive of one of the largest police agencies in the country, I believe strongly that the right to exercise discipline over law enforcement officers, who are authorized to use deadly force and who on occasion abuse that privilege by engaging in various forms of misconduct, must remain with the chief executive of that department. Federally created rights of police officers would seriously impinge upon that necessary civilian control over the police.

As a public official, I am also very troubled that the Senate of the United States is on the verge of enacting such far reaching legislation without a public hearing, without consideration of the views of law enforcement executives, without listening to the opinions of state and local officials and legislators who have been carefully crafting the labor-management agreements and the disciplinary procedures that would now be abrogated by this federal legislation.

In closing, I strongly urge you to delete the Police Officer's Bill of Rights from the crime package. This bill is unwise and untimely, particularly in light of the notorious police beatings we recently witnessed in Los Angeles. The Senate would be seriously abrogating its responsibilities to the law enforcement community and the citizenry in general if it were to enact this bill without giving it the full public consideration that such sweeping legislation would properly deserve.

Sincerely,

LEE P. BROWN,
Police Commissioner.

Mr. HATCH. That letter urges that this title be struck from the bill. Commissioner Brown's letter makes many good arguments against the provision, not the least of which is the effect that the damages that may be awarded under this title may have on State governments currently reeling under fiscal constraints.

Madam President, I have found that the more we tell State and local law enforcement officials what they can and cannot do, the more crime we have, the more difficult it is in enforcing the law, the more difficult it is in enforcing the disciplinary proceedings among police officers, and the more difficult it is to have the States run an efficient police force the way it should be run both on the State and local level. This particular provision in the bill deserves to be stricken.

The distinguished Senator from South Carolina has come up with, I think, a reasonable approach. I think it pays for us to follow that approach and give the States the option. If they want to conform to these types of provisions, let them choose to do so. If they do not want to, why impose something upon them that they really do not need, that is not going to help them be any more efficient, that is not going to help in the fight against crime, and that in the end is going to cost the taxpayers a lot more money, especially given that States are strapped for cash now.

It is nice to come up with ideas like this, but who is going to pay for them? The Federal Government is not going to wind up paying for them. In the end, it is going to be the States and the local governments, and they cannot afford it any more, especially when you have procedural nonsubstantive requirements that basically just run up even more costs without really benefiting anybody. This particular provision I think fits that category. I hope that everybody in the U.S. Senate will consider voting against it and supporting Senator THURMOND's amendment, which I think is a reasonable modification of title IX of this bill.

Madam President, I have to say in conclusion that the distinguished Senator from South Carolina really feels deeply about these matters, and so do I. He has done a terrific job on this Judiciary Committee. I want to compliment the distinguished Senator from Delaware, too. They have both put yeomen's hours in before, during, and after, and now on the floor on this bill. Both of them deserve a lot of support.

I have to admit that I want to support the distinguished chairman of this committee as I want to support the ranking minority member. In this particular instance, I really believe that we should quit this process of mandating extra requirements, extra costs on the backs of the States, and then changing the approaches that they have so we dictate personnel policy. What in the world is the Congress of the United States—and especially the august U.S. Senate—doing dictating personnel policies for police departments around this country?

The thoughts, I think, are well intentioned. I think they are wrong, though well intentioned.

Madam President, I yield the floor.

The PRESIDING OFFICER (Mr. KOHL). The time of the Senator has expired. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, the distinguished chairman of the committee, Senator BIDEN, has just stated that this would have no effect on the Rodney King type of case, if we recall the Rodney King case, in Los Angeles, CA.

Under this provision, if Chief Gates, the chief of police out in Los Angeles, wanted to reprimand or take any disciplinary action against one of the officers who stood by and watched Mr. King being beaten, their rights under the provision would apply.

Furthermore, I want to know why we should mandate to the States these rights. My amendment does not attack the goals of Senator BIDEN's bill; it simply makes the decision discretionary upon the States. Senator BIDEN's bill second guesses every State decision on this issue.

When the States are financially strapped, should we force the States to adopt these standards? I say, no. Should we open up collective-bargaining agreements, as the Biden measure would do? I say, no. My amendment keeps the spirit of the Biden measure without forcing the States to adopt it. It simply makes it discretionary if they want to do it.

Senator BIDEN has stated his measure does not preempt State law. This is not accurate. It does do so. It preempts all State laws and collective bargaining agreements which do not fully comply with his measure. Of course, those which provide greater rights are not preempted.

I repeat that the International Association of Chiefs of Police, and that means the chiefs of police throughout this Nation, all the States in this Nation, are against this bill. I repeat, the Sheriffs Association of the United States, its members, are against this bill.

Why should we tell the States what to do in handling the personnel policies in law enforcement against the wishes of that State? Why should we interfere with the sheriffs in performing their duties? If they do not perform their duties right, there is a county council any policeman can appeal to. There is a city council any policeman can appeal to if a chief does something that is wrong.

Why should the Federal Government, the great powerful Federal Government here in Washington, dip down and try to tell the cities and the counties and the States what to do? I say it is wrong. It is a violation of federalism. It is a violation, I think, of the Constitution. And I do not think we ought to do it.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, as you might expect, I take issue with the characterization of my legislation. But with regard to mandates in this bill, we have heard that phrase a number of times today. There are several mandates that have been added to this bill by our Republican colleagues; for example, the McConnell amendment.

I do not know how the senior Senator from South Carolina voted on that, but the McConnell amendment requires States to set up computerized recordkeeping for child abusers. It requires them to do that; mandates that they do that. It violates their States' rights. It interferes in the conduct of their State laws. But what is right is right, and it makes sense to do that.

The Durenberger amendment requires States to track child abusers released from prison for 10 years. It requires them. It tells every State you must—you must—track. We, the Federal Government, tell you you must track any State prisoner who, in fact, was released from prison after serving his or her term, or however they were released, for 10 years after they have been released.

The D'Amato amendment effectively allows the Federal prosecutors to preempt State prosecutors where there is a murder committed with a firearm. Because there are two D'Amato amendments, I would appreciate the indulgence of my colleagues for just a moment. One allowed the Federal prosecutors to step in where there was a firearm used, or a drug-related crime and a violent offense, and prosecute in Federal court. There was another D'Amato amendment—and I cannot recall whether it was agreed to, we have so many death amendments—that called for the Federal prosecutors, the Federal courts, to be able to have tried in Federal court anyone who committed a murder with the use of a firearm even in States where there is no death penalty in those States. We did not have any reluctance on that one to talk about overriding the States.

What we do here with regard to policemen's rights, there are 400,000 police officers out there who think this is a pretty important piece of legislation. There are 400,000 police officers out there who think what is right is right; that nobody should be able to, in a capricious manner, without good cause, take disciplinary action against a police officer on a police force unless the charges have been read to him and put in writing, and unless he has the opportunity to have somebody with him representing him when these charges are made and the action is taken.

That is not a particularly preposterous notion. It does not require such charges to be put forward if it is not a significant matter. If you are not showing up, if you are not punching the clock on time, and you get fired, you do not have to have the charges in writing. You do not have to have, as it relates to your job performance, a lawyer sitting there with you before they can do anything. If you are a suspect in a criminal investigation, this does not apply to you.

This is trying to get at the whim and caprice that a number of officers, of the 400,000 police officers who are for this, say they are subjected to. What is right is right. It is right that States should track child abusers after they have been let out of prison. It is right that we should have a requirement that States update and computerize their recordkeeping on child abusers. And it is right that police officers who are subject to the whim and caprice—not job related; not job performance activities; not criminal activities—have the right to have those charges written so they know why they are being fired, and have a chance to be represented and make their case.

That is what this does. I think it is right. I think it makes sense, and I am prepared to vote if my colleague is.

I will withhold the remainder of my time, unless my colleague is willing to yield back his time, as well, and we vote.

Mr. THURMOND. Mr. President, I want to say in closing there is a great distinction between the Federal Government and the States working together to apprehend and detect crime, and the Federal Government going down and mandating procedures on purely administrative matters. If they can do it in this case, if they can tell the sheriffs and chiefs of police of this Nation how they can discipline their people, they can also go down and tell the superintendents of the schools how they can discipline their schoolteachers.

Are we going to establish a precedent such as that? We better keep the Federal Government out of these things and let the States run their own policies. I think the superintendents of schools and the sheriffs and law-enforcement chiefs of police are just as capable of handling their matters as we can dictate from Washington. They have plenty of sense; they have plenty of experience. They know what works down there. Why should we, sitting

here in Washington, in this Capitol, tell them how to run their business? That is not federalism. After all, the Federal Government has certain powers; the States have all powers under the Constitution not specifically delegated to the Federal Government. These powers are with the States and ought to stay with the States.

Mr. President, I am willing to yield back my time if the Senator is.

Mr. BIDEN. I yield back the remainder of my time as well and ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I am pleased that the Senator from Delaware has included a version of the police officers' bill of rights in this crime bill. It is remarkably similar to my bill which I introduced last year, and again this year. In fact, 75 percent of the Biden text is identical to mine.

However, his bill mistakenly goes further than my bill in the 25 percent which the Senator changed. It creates a new cause of action for recovery of punitive and other damages if the rights set forth in the bill are violated. This just goes too far. States and cities will undoubtedly face frivolous and costly lawsuits as a result of the Biden language.

The Thurmond amendment takes out this bad section. Therefore, I will support the Thurmond amendment. Although the Thurmond amendment makes the bill of rights discretionary, it nevertheless sets forth a good blueprint for the States.

Mr. President, I introduced S. 322 this year because law enforcement officers across America face great challenges every day as they fight the war against crime and drugs. They are on the front line and their lives are in constant jeopardy. All of us owe them our gratitude and our respect.

Congress can emphasize that respect by making certain that the rights of law enforcement officers are protected when the going gets rough. My bill would guarantee that police officers will be treated fairly during any inquiry.

Mr. President, too often law enforcement officers lose their jobs for frivolous reasons—or for no reason at all. For example, the officer may have a difference of opinion with a superior.

Let me make it clear—my bill (S. 322) does not preempt existing State laws that meet the minimum requirements of the bill.

Mr. President, S. 322 differs from the Biden bill in several respects. My bill does not include a section authorizing law enforcement officers to engage in political activity. Second, S. 322 does not include a section on the disclosure of finances. I feel that each State should be allowed to decide how to deal with that particular issue.

Finally, as I stated earlier, the Biden bill creates a new cause of action. For these reasons, I support the Thurmond amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, No. 486, offered by the Senator from South Carolina [Mr. THURMOND]. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR], is absent because of illness.

Mr. SIMPSON. I announced that the Senator from Vermont [Mr. JEFFORDS], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 55, as follows:

Rollcall Vote No. 118 Leg.

YEAS—43

Bond	Gramm	Packwood
Brown	Grassley	Pressler
Burns	Hatch	Roth
Chafee	Hatfield	Rudman
Coats	Helms	Seymour
Cochran	Hollings	Simpson
Cohen	Kassebaum	Smith
Craig	Kasten	Specter
D'Amato	Leahy	Stevens
Danforth	Lott	Symms
Dole	Lugar	Thurmond
Domenici	Mack	Wallop
Durenberger	McCain	Warner
Garn	Murkowski	
Gorton	Nickles	

NAYS—55

Adams	Exon	Mikulski
Akaka	Ford	Mitchell
Baucus	Fowler	Moynihan
Bentsen	Glenn	Nunn
Biden	Gore	Pell
Bingaman	Graham	Reid
Boren	Harkin	Riegle
Bradley	Heflin	Robb
Breaux	Inouye	Rockefeller
Bryan	Johnston	Sanford
Bumpers	Kennedy	Sarbanes
Burdick	Kerrey	Sasser
Byrd	Kerry	Shelby
Conrad	Kohl	Simon
Cranston	Lautenberg	Wellstone
Daschle	Levin	Wirth
DeConcini	Lieberman	Wofford
Dixon	McConnell	
Dodd	Metzenbaum	

NOT VOTING—2

Jeffords	Pryor

So the amendment (No. 486) was rejected.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. BIDEN. Mr. President, I now would like to propound a unanimous-consent request that has been agreed to on both sides relating to the amendments and the long list of amendments that have been cleared by the managers on both sides.

That is what I am about to do, to let Senators know what to do. So there is nothing of great moment consequence. We are not about to undo anything that has been done in the bill.

Mr. President, I ask unanimous consent that the following amendments be the next amendments in order to the bill, that no amendment to the amendments or to any text be proposed to be stricken or motions to recommit be in order during the pendency of these amendments: The Hatch amendment; the Deparment of Justice employee attorneys' fees; then the Pell-Thurmond amendment on deportation of aliens convicted of felony drunk driving; the Wofford amendment on environmental audits; the McConnell amendment on technical amendments to child registration; and the Metzenbaum amendment on prison selection. I ask unanimous consent that all of these amendments be accepted.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. THURMOND. We have no objection, Mr. President.

Mr. BIDEN. Mr. President, I move they be agreed to en bloc.

Mr. FOWLER. Mr. President, reserving the right to object. I shall not object. But I want to make clear to the chairman, if I heard him correctly over the little bit of confusion, the understanding of the Senator from Georgia is that the unanimous-consent request only lists these amendments for consideration in the order that the chairman reported, and that this is not an exclusive list of amendments.

Mr. BIDEN. Responding to the Senator's question, Mr. President, that is correct. What I am attempting to do, and what the Senator from South Carolina and I are attempting to do—there are somewhere between 70 and 100 amendments.

There are somewhere between 70 and 100 amendments. We are attempting to, as we move along, determine whatever amendments we can get agreed to or get an agreement to have a vote on—and we have not been all that successful in being able to order votes here—and that we enter them as separate unanimous-consent requests, and just keep whittling this list down.

Nothing that the Senator from Delaware has requested in this unanimous-consent agreement prejudices anybody's right on any other amendments or any aspect of the bill, other than that we would consider and pass, en bloc, the Hatch, Pell, Wofford, McConnell and Metzenbaum amendments, all of which have been agreed to by the managers of both sides and cleared on both sides. That is all it would do.

Mr. FOWLER. I thank the Senator and withdraw my objection.

Mr. BIDEN. Mr. President, I further ask unanimous consent that after we adopt these amendments en bloc, each of the Senators who have amendments can come and speak at whatever time is convenient for them to each of these

amendments, or that their statements will be able to be entered into the RECORD prior to the adoption of these amendments.

Mr. President, I amend my unanimous-consent request—since in fact all five of these amendments are not in hand at the moment to send to the desk, I renew the request in the following way: That all of the amendments that I have mentioned—Hatch, Pell, Wofford, McConnell and Metzenbaum amendments—be considered in the order in which they are read and that no amendments to these amendments or any text proposed to be stricken or motions to recommit be in order during the pendency of these amendments.

Quite frankly, in a matter of moments, we will have them to send to the desk.

Mr. STEVENS. Is there a time agreement on each of the amendments?

Mr. BIDEN. Mr. President, I request there be no more than a minute on each amendment.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NOS. 562, 563, 564, 565, 566, AND 567

Mr. BIDEN. Mr. President, I send six amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The amendments will be considered en bloc. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 562, as follows:

AMENDMENT NO. 562

(Purpose: To provide an award of attorney's fees for employees of the Department of Justice)

At the appropriate place, insert the following:

In 28 U.S.C. 519, designate the current matter as subsection (a) and add the following:

(b) AWARD OF FEES.—

d(1) CURRENT EMPLOYEES.—Upon the application of any current employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for reasonable attorney's fees incurred by the employee as a result of such investigation.

(2) FORMER EMPLOYEES.—Upon the application of any former employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for those reasonable attorney's fees incurred by that former employee as result of such investigation.

(3) EVALUATION OF AWARD.—The Attorney General may make an inquiry into the reasonableness of the sum requested. In making such inquiry the Attorney General shall consider:

(A) the sufficiency of the documentation accompanying the request;

(B) the need or justification for the underlying item;

(C) the reasonableness of the sum requested in light of the nature of the investigation; and

(D) current rates for legal services in the community in which the investigation took place.

Mr. HATCH. Mr. President, under the current regulations and policy, the Department of Justice does not provide adequate—or even any—reimbursement for private attorney's fees incurred by working level Justice Department personnel in proceedings arising out of the conduct of their official duties. Justice Department attorneys, however, are increasingly subject to private and public misconduct proceedings. For example, according to the 1988 Annual Report to the Attorney General of the Office of Professional Responsibility [OPR], OPR received 424 complaints in calendar year 1988 involving allegations of misconduct against Department employees. Forty-two percent of the complaints involved Department attorneys. Significantly, OPR reported, a notable increase over the previous year in the number of complaints alleging abuse of prosecutorial or investigative authority * * * from 12 percent to 15 percent of the total number of complaints received. [1988 Report at 5.] OPR also reported that less than 10 percent of the cases closed during 1988 were substantiated. [*Id.*]

Justice Department regulations and policies unwisely restrict the Department's ability to assist working level employees to defend against the increasing incidence of apparently groundless complaints. Working level Department officials cannot obtain reimbursement for private attorney's fees incurred defending against a Federal criminal investigation or an internal administrative investigation. Although reimbursement is within the Department's discretion for civil, State, criminal, and congressional proceedings, the amounts provided can be grossly inadequate. In contrast, high level Government officials can obtain full reimbursement for private legal fees incurred in criminal investigations, which frequently total in excess of six figures.

CURRENT REGULATIONS AND POLICY

INVESTIGATION AND COMPLAINTS

Justice Department employees are subject to external and internal proceedings and investigations on the conduct of their official duties. In particular, civil and criminal proceedings alleging abuse of prosecutorial discretion, misconduct, and subordination of perjury appear to be increasing. These proceedings can serve, and are apparently sometimes intended, to intimidate prosecutors. Moreover, the increasing frequency with which Department lawyers feel required to challenge aspects of defense lawyers' relationships with their clients, particularly fee arrangements, has seemingly made defense lawyers more willing to charge prosecutors with breaches of professional standards. Because the Justice Department has ultimate responsibility for enforcing U.S. law, the Department must investigate any allegations zealously to ensure that the integrity of its personnel and procedures is beyond reproach.

As a result, the Justice Department has elaborate procedures for the review and referral of claims brought against its employees. The Attorney General has a separate office devoted to the review of such claims, OPR, and recently the post of Inspector General was created in the Justice Department to investigate misconduct. OPR's responsibilities for reviewing claims against Department officials are set forth in 28 CFR 0.39a which mandates a review of, any information or allegation concerning conduct by a Department employee that may be in violation of law, regulations or order, or of applicable standards of conduct, or that may constitute mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health or safety.

OPR's review also must include any "preliminary inquiry" necessary to determine whether the matter should be referred to other branches of the Justice Department. [28 CFR 0.39c.] The complaints OPR typically investigates include bribery, obstruction of justice, abuse of discretion, unprofessional behavior and unauthorized release of information. OPR must refer any matter which "appears to warrant examination" to various divisions of the Department for prosecution. [28 CFR 0.39d.] In short, the OPR must review thoroughly any allegation brought to its attention.

REPRESENTATION OF DEPARTMENT EMPLOYEES SUBJECT TO COMPLAINT LAW, REGULATIONS AND POLICIES

With respect to the burden and costs of defending against such proceedings, the Justice Department has broad discretion, to attend to the interest of the United States in a suit pending in a court of the United States, or in a court of a State, or to attend any other interest of the United States." [28 U.S.C. 517.] Under Department of Justice regulations, Justice may provide representation to "a Federal employee," including former ones, who requires representation in civil or congressional proceedings and State criminal proceedings when the actions for which representation is required appear to have been performed within the

scope of the employee's employment and representation "would otherwise be in the interest of the United States." [28 CFR 50.15(a).] Where defense of an attorney would raise "conflicts with the interests of the United States," the government provides private counsel "in appropriate cases." [28 CFR 50.15 (10)(iii).] The appointment of private counsel is "subject to the availability of funds." [28 CFR 50.16a.]

There are two significant exceptions to this policy: Federal criminal investigations of working level employees and internal disciplinary proceedings. In the case of a Federal criminal investigation, the Justice Department may not provide representation in such proceedings or a related civil, congressional or State criminal proceeding. "The litigation division, however in its discretion, may provide a private attorney to the employee at Federal expense * * *" but only for the related proceedings. [28 CFR 50.15 (4)(6).] Moreover, the Comptroller General has held that when a department investigates itself, it may neither represent nor reimburse private attorney's fees because it is against the interest of the United States to defend its own employee. The Governments' interest lies in the investigation, not the defense, according to the Comptroller General. [See 58 Comp. Gen. 613 (1979).]

This policy was discussed comprehensively in a June 18, 1980, opinion given by the Office of Legal Counsel of the Department of Justice to the National Highway Traffic Safety Administration ("1980 Opinion"). According to the Justice Department opinion, representing an employee, or providing private counsel to an employee when a conflict of interest makes it impossible for the Department to represent him, can serve two legitimate functions. It can establish the lawfulness of authorized conduct and prevent employees from being deterred from the "vigorous performance of their tasks by the threat of litigation."

The opinion clearly states, however, that the authority to provide counsel does not extend to situations in which the employee is under internal investigation. In these situations, the Justice Department takes the position that the purpose of the investigation is to determine what the interests of the United States require—prosecution, exoneration, or something in-between—and therefore "the Department cannot provided a defense of personal interests in the investigation." [1980 Opinion, P.2.]

Discussion of instances in which exonerated Justice Department employees have been forced to bear significant legal fees in defending their official conduct is predictably rare. Investigations by OPR, the Public Integrity Section of the Justice Department or a Federal grand jury are all ordinarily confidential and most persons, even after exoneration, are understandably reluctant to publicize these events in order to complain about the inadequacy of Department reimbursement policies. But that goes to change the underlying unfairness of the current situation.

REIMBURSEMENT OF ATTORNEY'S FEES FOR HIGH RANKING OFFICIALS

In contrast to the situation described above, the Independent Counsel Reauthorization Act provides for full reimbursement of counsel's fees incurred by high level Federal officials subject to investigation for possible violations of Federal criminal law. 28 U.S.C. 593 (f) states:

Upon the request of an individual who is the subject of an investigation conducted by an independent counsel pursuant to this chapter, the division of the court may, if no indictment is brought against such individual pursuant to that investigation, award reimbursement for those reasonable attorneys' fee incurred by that individual during that investigation which would not have been incurred but for the requirements of this chapter. The division of the court shall notify the Attorney General of any request for Attorneys' fees under this subsection.

(2) EVALUATION OF FEES

The division of the court may direct the Attorney General to file a written evaluation of any request for attorneys' fees under this subsection, analyzing for each expense—

(A) the sufficiency of the documentation;

(B) the need of a justification for the underlying item; and

(C) the reasonableness of the amount of money requested.

The justification for reimbursement offered in the 1982 Ethics in Government Act in which the fee provision was originally enacted was that the costs of defense for a public figure were "staggering" and involved potentially "devastating publicity." [S. Rept. No. 97-496, 1982 U.S. Code Cong, & Admin. News 3537, 3554-55.] The Senate report notes, for example, that Hamilton Jordan's legal fees for defending himself against drug use charges exceed six figures. Id. Yet the terms "staggering" and "devastating" are equally descriptive of the economic and emotional impact of a charge of prosecutorial misconduct against an assistant U.S. attorney who is typically young, inexperienced, earns a starting salary of between $30,000-40,000 a year and is usually a relatively recent law school graduate.

Providing legal fees to high-ranking government officials subject to investigation for violation of criminal law but not to working level employees such as assistant U.S. attorneys is unfair. High ranking officials obviously receive larger government salaries than their working level colleagues and not infrequently leave Government employment for highly lucrative private sector positions. They can thus afford to pay the costs of defense more easily than a government lawyer only a few years out of law school. Moreover, they are less vulnerable to the chilling effect misconduct or criminal investigations can have on employees on the front line of prosecution. Pursuing the Department's law enforcement mission in a vigorous fashion will inevitably expose Department employees to a combative atmosphere where disagreements about proper conduct seem likely and complaints about the conduct of Department employees are largely inevitable.

PRIVATE ATTORNEY'S FEES INCURRED BY WORKING LEVEL JUSTICE DEPARTMENT PERSONNEL SHOULD BE ELIGIBLE FOR FULL REIMBURSEMENT

FULL REIMBURSEMENT ELIMINATES CONFLICT OF INTEREST

The reimbursement provisions of the Independent Counsel Act demonstrate that the public interest in assisting government officials with the staggering cost and devastating impact of investigation can outweigh any real or perceived conflict of interest. As noted above, Justice will not provide reimbursement of counsel fees in Federal criminal proceedings or internal investigations on the grounds that conflict is irreconcilable, since the Federal Government is investigating to determine where the public interest lies and cannot logically provide or fund a defense to such investigation.

The Independent Counsel Act, however, correctly provides reimbursement for attorney's fees if the person under investigation is vindicated. By limiting Government assistance only to such circumstances, the public interest in clearly served. Any conflict attributable to the "Government arguing with the Government" is rendered void. By providing reimbursement only for a successful defense, any incentive to defending private counsel to go easy with the Government because it will reimburse his or her fees is removed. Also, by providing the means for an adequate defense for its employees, the U.S. Government ensures that frivolous or vindictive investigations are terminated quickly. At the same time, there is no incentive under such an arrangement for the Government to prosecute less zealously; indeed, a successful prosecution saves costs since there then would be no obligation to pay legal fees.

If no reimbursement is available, however, the possibility of serious conflicts is great. If an assistant U.S. attorney must retain private defense counsel, it is likely that the defense counsel would have to provide the U.S. attorney with a fee discount, or pro bono representation as described above. This concession arguably creates an incentive, real or apparent, to give the defense lawyer better treatment in future proceedings, even if the individual employee does not deal with his or her lawyer again since a sense of institutional gratitude is natural toward an attorney who assists a beleaguered colleague. Similarly, if an assistant U.S.

attorney goes into debt to pay defense costs, this obligation creates an obvious source for future conflicts.

REIMBURSEMENT SHOULD BE LIMITED TO DOJ EMPLOYEES

Provision for reimbursement of private attorney's fees limited to Justice Department employees can be fully justified. Justice employees, because of their duties, are far more often subject to allegations of misconduct, usually by defendants and less often by courts. In either event, the reality is that DOJ employees—both lawyers and agents—are in a position of constant adversity. Allegations brought against them often must be pursued by the Department to maintain the appearance and reality of evenhandedness. In order to prevent this occasional need for self-defense from becoming a disincentive to government service, or to force assistant U.S. attorneys to roam the defense bar looking for handouts in the form of free legal service—a disagreeable situation to say the least—some legislative relief is appropriate. My amendment provides such relief.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL] proposes an amendment numbered 563, as follows:

AMENDMENT NO. 563

(Purpose: To amend the Immigration and Nationality Act to provide for the deportation of aliens who are convicted of felony drunk driving)

At the appropriate place in the bill, add the following:

That (a) section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)) is amended—

(1) by striking out "or" at the end of paragraph (20);

(2) by striking out the period at the end of paragraph (21) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(22) is convicted of operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance arising in connection with a fatal traffic accident or traffic accident resulting in serious bodily injury to an innocent party.".

Mr. PELL. Mr. President, I am pleased to offer this amendment along with my colleague Senator THURMOND. Under this amendment, the Immigration and Naturalization Service would be given the authority to deport non-U.S. citizens convicted of felony drunk driving.

Specifically, this amendment applies to aliens convicted of causing serious bodily injury or death while operating a motor vehicle under the influence of alcohol or drugs.

The need for this amendment was brought to my attention by Mothers Against Drunk Driving. MADD told me about a case in Florida where a resident alien was convicted of drunk driving after causing a crash in which an innocent 73-year-old woman received a crushed pelvis, a punctured lung, broken ribs and serious stomach wounds. This was the third drunk driving conviction for this alien and yet he was allowed to remain in this country.

This is not right and the law should be corrected. If an alien is convicted of murder, rape, assault, robbery, or drug possession, that alien is eligible for deportation. But if an alien is convicted of felony drunk driving after causing serious harm or even death, no deportation can occur.

This amendment would add felony drunk driving to the list of crimes that may warrant deportation. The amendment does not mandate automatic deportation, it simply includes felony drunk driving as one of several serious crimes that may make an alien eligible for deportation.

Mothers Against Drunk Driving has done an excellent job over the last 10 years in fighting drunk driving and this amendment has their full support. This amendment also has the support of my distinguished colleague from South Carolina, Senator THURMOND and the chairman of the Judiciary Committee, Senator BIDEN.

Mr. President, I hope that this amendment can be accepted by the managers of the bill and I appreciate their courtesy.

Mr. THURMOND. Mr. President, I rise today in strong support of the amendment to the crime bill offered by Senator PELL. This proposal will amend the Immigration and Nationality Act to provide for the deportation of aliens who are convicted of drunk driving while under the influence of alcohol or illegal drugs, and cause a death or serious bodily injury to an innocent party. This amendment is virtually identical to S. 1210, a bill introduced by Senator PELL earlier this year.

Mr. President, we are all aware of the horrors that result from drunk driving. It is imperative that the Congress act to stop people from getting behind the wheel of an automobile when they are under the influence of alcohol or drugs.

Presently, Federal law compels the deportation of an alien who has been convicted of committing certain criminal offenses. For example, if an alien is convicted of a crime involving "moral turpitude" which, under case law includes such crimes as murder, rape, robbery, and assault, then that alien can be deported. However, if an alien drives while under the influence of alcohol or drugs, and he or she kills or seriously injures an innocent victim, the alien cannot be deported.

Mr. President, this bill does not change the procedures for deportation. This bill simply adds another class to the current list of deportable aliens. The Mothers Against Drunk Driving strongly advocate the necessity of this amendment to reflect society's intolerance for drunk driving and its consequences.

Mr. President, I believe that this amendment will serve the important purpose of deporting those who kill or injure an innocent victim when he or she chooses to drive while under the influence of alcohol or drugs. I urge my colleagues to accept this important amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. WOFFORD] proposes an amendment numbered 564, as follows:

AMENDMENT NO. 564

(Purpose: To amend title 18, United States Code, with respect to environmental compliance)

At the end of the bill, add the following:

TITLE —ENVIRONMENTAL COMPLIANCE

SEC. 01. ENVIRONMENTAL COMPLIANCE.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 33 the following new chapter:

"CHAPTER 34—ENVIRONMENTAL COMPLIANCE

"731. Environmental compliance audit.
"732. Definition.

"§ 731. Environmental compliance audit

"(a) IN GENERAL.—A court of the United States—

"(1) shall, when sentencing an organization for an environmental offense that is a felony; and

"(2) may, when sentencing an organization for a misdemeanor environmental offense,

require that the organization pay for an environmental compliance audit.

"(b) APPOINTMENT OF INDEPENDENT EXPERT.—The court shall appoint an independent expert—

"(1) with no prior involvement in the management of the organization sentenced to conduct an environmental compliance audit under this section; and

"(2) who has demonstrated abilities to properly conduct such audits.

"(c) CONTENTS OF COMPLIANCE AUDIT.—(1) An environmental compliance audit shall—

"(A) identify all causes of and factors relating to the offense; and

"(B) recommend specific measures that should be taken to prevent a recurrence of those causes and factors and avoid potential environmental offenses.

"(2) An environmental compliance audit shall not recommend measures under paragraph (1)(B) that would require the violation of an environmental statute, regulation, or permit.

"(d) COURT-ORDERED IMPLEMENTATION OF COMPLIANCE AUDIT.—The court shall order the defendant to implement the appropriate recommendations of the environmental compliance audit.

"(e) ADDITIONAL STANDING TO RAISE FAILURE TO IMPLEMENT COMPLIANCE AUDIT.—(1) The prosecutor, auditor, any governmental agency, or any private individual may present evidence to the court that a defendant has failed to comply with the court order under subsection (d).

"(2) When evidence of failure to comply with the court order under subsection (d) is presented pursuant to paragraph (1), the court shall consider all relevant evidence and, if the court determines that the defendant has not fully complied with the court order, order appropriate sanctions.

"§ 732. Definition

"For the purposes of this chapter, the term 'environmental offense' means a criminal violation of—

"(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

"(2) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly known as the Clean Water Act);

"(3) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

"(4) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(5) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

"(6) the Solid Waste Disposal Act (42 U.S.C. 5901 et seq.);

"(7) title XIV of the Public Health Service Act (42 U.S.C. 300f et seq.) (commonly known as the Safe Drinking Water Act); and

"(8) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

(b) TECHNICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 33 the following new item:

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I rise to express my support for the amendment just read which was offered by the junior Senator from Pennsylvania [Mr. WOFFORD].

Senator WOFFORD's amendment assures that those committing felonies under our major Federal environmental laws are required to conduct environmental compliance audits. These audits, which judges must require for felonies and may require for misdemeanors, are to identify the problems related to the crime and to identify ways to prevent similar crimes from occurring.

The amendment provides courts with this additional appropriate tool for addressing preventable environmental problems.

I am pleased that, so soon after joining the Senate, the Senator from Pennsylvania has addressed this problem of violations of environmental laws. This nonpreemptive provision should help us prevent further risk in the future to public health and to the environment from exposure to pollution. Prevention is our least expensive option, as experience has repeatedly demonstrated. Such compliance orders should help us prevent environmental crimes from occurring. I applaud the Senator for his worthwhile amendment.

Mr. BIDEN. Mr. President, I would like to commend my colleague from Pennsylvania for proposing this amendment. It will provide judges in environmental cases an important new tool to gain real improvements in the operations of troubled factories.

The amendment allows judges to require a company, after it has been convicted of a felony violation of a Federal environmental statute, to conduct an environmental audit of its operations. I would note that the standard for a felony conviction under these statutes is quite high, so it is not a requirement that will be mandated for simple errors or operational glitches in a factory.

The audit will be valuable in making companies that, by their conviction in a court of law, have shown that they are not taking seriously the importance of controlling pollution from their operations. The audit requirement will prevent those companies from simply dismissing the cost of the fine as a cost of doing business.

The audit requirement will allow the courts to more directly focus management's attention on the portions of the factory's operations causing the problems, be they personnel or machinery.

I would like to address one assumption that may be made about the audit requirement—that it will necessitate investment in expensive pollution control equipment that some companies cannot afford. This will not be the case. The wording of the amendment allows an emphasis of any audit to be placed on pollution prevention measures, or those that reduce or eliminate the generation of hazardous wastes in the first place, not after it is produced.

If the pollution prevention option is aggressively pursued when audits are required, the public will be better served because they will face a much reduced risk from the factory. And the company owners may even be surprised to see better performance and a stronger bottom line. Too many plant managers view pollution control as an expense, but extensive experience with pollution prevention shows it will often save companies money.

The value of an audit has been demonstrated thousands of times over in a slightly different requirement. Section 313 of Superfund requires factories to report their emission levels. The so-called "community right to know" reporting requirements were strenuously opposed by industry when proposed.

But once they started, the reports opened the eyes of factory managers across the Nation to the amount of pollution that flows from their works. The result has been embarrassment at first, but then, in many cases, a determination to reduce those numbers. That is good for the companies and better for the environment and nearby communities.

That is the type of change that I believe the Senator from Pennsylvania's amendment will bring about. It will force an open assessment of a company's environmental operations, and I am convinced it will prove to be a most valuable change. I commend him for his effort in bringing this before the Senate.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 565, as follows:

AMENDMENT NO. 565

(Purpose: To make technical corrections and modifications to the amendment)

On page 3 of the amendment, line 1, after the semicolon insert "and".

On page 3 of the amendment, line 5, strike "; and" and insert a period.

On page 3 of the amendment, strike lines 6 through 8.

On page 5 of the amendment, strike lines 3 through 5 and insert the following:

(a) IN GENERAL.—A State which reports the convictions of named individuals to the Federal Bureau of Investigation shall include all convictions for child abuse as defined by this title.

On page 5 of the amendment, line 6, strike "(1)".

On page 5 of the amendment, strike lines 10 through 23.

On page 5 of the amendment, strike beginning with line 24 through line 6 on page 6 and insert the following:

SEC. 06. COMPLIANCE AND FUNDING.

(a) STATE COMPLIANCE.—Each State shall have 3 years from the date of enactment of this title in which to implement the provisions of section 05.

(b) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with the provisions of subsection (a) 3 years after the date of enactment of this title shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with subsection (a).

Mr. KOHL. Mr. President, I would like to thank and commend my distinguished colleague from Kentucky for the changes he made in his "child abuser registration amendment." His substitute language clarifies the role of the law enforcement agencies in supplying information on criminal convictions for child abuse. Child welfare agencies can not be held responsible for routinely tracking law enforcement information nor should Federal child abuse funds be leveraged to force them to do so. Again, I thank Senator MCCONNELL for his attention to my concerns here and his willingness to clarify his amendment accordingly.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 566, as follows:

AMENDMENT NO. 566

(Purpose: To assure that social and economic status shall not be a factor in determining a prisoner's place of imprisonment)

At the appropriate place in the bill, insert the following:

Paragraph (b) of section 3621 of title 18, United States Code, is amended by inserting after subsection (5) the following:

"However, the Bureau may not consider the social or economic status of the prisoner in designating the place of the prisoner's imprisonment."

Mr. METZENBAUM. Mr. President, I rise merely to comment on my amendment, because I want to be certain that the Bureau of Prisons understands the significance of the amendment. Under the law today, the Bureau of Prisons has the obligation to designate the place of the prisoners imprisonment, and in deciding where that place should be, they are required to take into consideration the resources of the facility, the nature and circumstances of the offense, history and characteristics of the prisoners, and other things.

The amendment that has just been adopted provides as follows: "However,

the bureau may not consider the social or economic status of the prisoner in designating the place of the prisoner's imprisonment."

Simply stated, what that amendment says is that the Bureau of Prisons shall not take a look and see that white collar criminals are given special consideration as to the kinds of prisons to which they are assigned. So often I have read in the papers and seen on TV the beautiful prisons that some criminals—white collar criminals—go to, wealthy criminals. Poor criminals do not go to them. In some prisons there are tennis facilities, baseball facilities, and it is like a second home. That is fine. I have no problem with having that kind of prison. But I do not believe that because of the social or economic situation of the prisoner, just because he or she was an executive of some large corporation, or had been involved in some large stock swindle from some very prestigious investment banking firm, that individual has a right to go to those prisons, and other prisoners do not have a right to share those facilities.

I hope that the director of the Bureau of Prisons understands what the intent of the United States Senate is in enacting this amendment, so that in the future we will not read stories about how special people were given special prisons to spend their time in while they were incarcerated with the Federal Government. Thank you very much.

I yield the floor.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL] proposes an amendment numbered 567, as follows:

AMENDMENT NO. 567

(Purpose: To amend the Bureau of Justice Assistance Act to assist communities in developing coalitions to implement a substance abuse prevention and intervention program, and for other purposes)

At the appropriate place, insert the following:

SEC. . DEPARTMENT OF JUSTICE COMMUNITY SUBSTANCE ABUSE PREVENTION ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1991".

(b) COMMUNITY PARTNERSHIPS.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General and the appropriate State agency in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General and the appropriate State agency may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General and the appropriate State agency shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coaltion receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General, and the appropriate State agency, evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General, or the appropriate State agency, may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall submit an annual review to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.".

"(c) AMENDMENTS TO TABLE OF SECTIONS.—The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse.".

Mr. KOHL. Mr. President, I am offering an amendment that goes to the heart of much of the violent crime of today. For days we have considered amendments calling for the death penalty, requiring mandatory minimum sentences, and adding more and more law enforcement personnel. I believe many of these provisions are necessary, and I voted for most of them. But I also believe that unless the cause of violent crime is attacked at the lower level, the trend of increasing violent crime will continue unabated. Unless we confront the massive drug problem in this country, incidents of drug-related violent crime will keep multiplying.

This amendment will prompt community-based action against drugs, and the violence so closely associated with drug activity. It is common wisdom that grassroots activity produces creative and lasting solutions. Local communities know what they need; how to achieve it; and whether it works. The best thing Washington can do is spur coalitions in each city among business leaders, neighborhood activists, municipal officials, teachers, parents, labor unions, police organizations, religious groups, and others. Mr. President, this is not a handout, it is a hand up; it is community self-help, community self-reliance, community repair, and community empowerment.

This amendment confronts the epidemic of drug related violent crime by

treating the source, not a symptom. By authorizing the Attorney General to assist communities in planning and implementing comprehensive drug abuse programs, it will reduce the number of violent crimes we all know stem from drug abuse. Under this amendment, a community that organizes a representative coalition may receive a grant through the Bureau of Justice Assistance. That money would be used to plan strategies and coordinate prevention activities. A coalition would also be required to identify and solicit funding sources to make its activities self-sufficient.

Mr. President, I think all of us could agree that we need to concentrate on the next generation. Accordingly, recipient coalitions must involve those who work with children, such as teachers and coaches. Also, coalitions must include police and social service agencies.

I am acutely aware of the need to assess our efforts as we go along. We simply cannot afford to throw away money at problems. We have to make sure each program is getting results, and in a cost-efficient way. That is why this amendment requires every coalition to provide an annual report to the Attorney General. In turn, the Attorney General must evaluate the effectiveness of the grant program in an annual report to the House and Senate Judiciary Committees. In this way, Congress will maintain oversight of the entire program and can make any necessary modifications.

Mr. President, community self-help is not a partisan issue. It is a matter of letting the people who experience a problem devise methods for fixing it. I understand that this amendment has been cleared by both sides, and I move for its adoption. Thank you, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (Nos. 562, 563, 564, 565, 566, and 567) were agreed to en bloc.

Mr. METZENBAUM, Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 564

Mr. WOFFORD. Mr. President, I appreciate the words by the distinguished majority leader, and I am pleased that this amendment providing for the cleanup of toxic criminal pollution has been adopted.

This amendment addresses the aftermath of environmental crime. Currently, criminals prosecuted under our environmental laws can pay a fine and walk away from the harm they have done. Our courts have no authority to order polluters to clean up their toxic mess. This amendment will give courts the tools they need to guarantee that these sites are cleaned up and steps are taken to prevent further damage.

It provides for a thorough evaluation of the site of the crime by an independent expert. Recommendations for cleanup, based on this evaluation, would then be implemented by a court order. This process is known as an environmental audit, but that term is a misnomer. Rather than a mere assessment of the damage, my amendment sets up a procedure for the cleanup and restoration of the site.

Court-ordered environmental audits should be standard operating procedure; courts should have clear, explicit authority to order the cleanup of environmental disasters and ensure that their causes are eliminated. It makes little sense to fine the guilty parties, no matter the size of the fine, and allow the destruction to go unrepaired and the causes go uncorrected.

Mr. President, the body of our Criminal Code is very old; part of a tradition which reaches back hundreds of years. By contrast, the body of our environmental law is very young. So while we're updating our criminal laws to deal with the violence and fear that are rampant in our communities today, it is time to deal with the violence that's being done not only to our environment, but to our public health, our quality of life and our children's future. I think the best way to do this is to allow the prosecution of environmental crimes under the Criminal Code.

During the past 25 years, Congress has enacted progressive legislation to help protect, preserve, and even restore our environment. Many States have done the same, and none more so than my own.

But I submit, Mr. President, that penalties for the most egregious insults to our environment are neither tough enough to deter the offense, nor sufficiently codified to enable speedy, compelling prosecution. In fact, most statutes place a cap on the fines imposed on environmental criminals. Equally important, there is no legal requirement that the environmental damage resulting from the crime be fully audited and the underlying causes of the damage be remedied.

When people are victimized by crime, the shock and the trauma don't go away quickly. We know that the pain and the scars can last a long time. And I believe that our recognition of that fact has provided a powerful sense of purpose and passion to debate that's been carried on in this Chamber over the crime bill.

But the same holds true when irresponsible companies commit crimes against our natural environment. The consequences can be horrifying and long term. And sometimes the full damage won't even be clear for years to come.

My State and our Nation have experienced one instance after another in which oilspills, toxic waste leaks, and other environmental disasters have resulted in lasting damage to our ecosystems and our quality of life.

Polluting our natural environment—like drug violence on our streets—robs our children of their future. We ought to treat severe, long-term damage to the air we breathe, the water we drink and the land we live on like other major crimes against society. And those who poison our children and cause severe damage to our environment ought to be in prison stripes, not pinstripes.

Clearly, it is not enough to have a policy that says "the polluter pays." Too many polluters can afford to pay. We need a punishment that really punishes. We need tougher standards and stiffer penalties for those who willfully, negligently, or recklessly fail to protect the health and safety of our families and our communities.

My original amendment, which I am not offering today, would match the punishment with the crime; it says that if you commit a deadly offense against our natural environment, you will be held criminally accountable for the extent of the consequences—that you'll be liable for prosecution with the full force of the U.S. Criminal Code.

It would create two new environmental felonies; reckless endangerment to the environment, a course of illegal conduct endangerment felony; and a negligent endangerment misdemeanor. It calls for enhanced penalties for egregious violations of the major existing environmental statutes. It brings many of these enhanced sanctions in line with those of the 1990 Clean Air Act. My original amendment would make the penalties for environmental crimes correspond to the harm done by polluters. It would increase the average upper level fine from $2,500 to $25,000 for individuals, and environmental criminals would face up to 30 years in prison instead of the 5 available under current law. These tough new penalties reflect the fact that our water, land, and biological diversity merit the same kind of protection as our air.

I believe that consistency among our major environmental statutes would promote better compliance—offenders would know that if they commit a serious violation, regardless of the statute, regardless of how, where or what they damage, the sanctions they'll face will be tough and sure.

By amending the Criminal Code itself we would improve the ability to prosecute violators. So that if an employer allows his workers to handle toxic materials in a dangerous way, a reckless endangerment provision will make it easier for a prosecutor to prove that the employer should have known of the danger, and failed to do something about it.

Mr. President, these steps are absolutely necessary if we are to protect our citizens from the harm done by toxic pollution. I look forward to working with my colleagues on this issue, and I thank you for the opportunity to speak today.

Mr. LIEBERMAN. Mr. President, I am pleased to rise in support of Senator WOFFORD'S amendent which would require corporate polluters to conduct an environmental audit after being found guilty of a felony environmental crime. The audit, which would be conducted by an outside expert, would be an independent assessment which would recommend specific measures that the defendant must take to clean up the site and prevent future environmental offenses. These recommendations must be implemented by the defendant, subject to a court order.

This amendment is similar to provisions in S. 761, the Hazardous Pollution Planning Act, which I introduced earlier this year. My legislation would require that independent audits be conducted at facilities where there is a history of noncompliance with the terms of permits or other provisions of environmental laws and where the facility may present a threat to human health and the environment.

Mr. President, recent studies have indicated that there is widespread noncompliance with our environmental laws. EPA's Science Advisory Board, EPA's inspector general and the General Accounting Office have all recently issued reports concluding that our Nation's laws are not being adequately enforced. For example, the General Accounting Office has testified that "enforcement of our Nation's water quality laws continues to be weak and sporadic." In a recently completed study, the public interest group U.S. PIRG found that in just a 3-month period from July–September 1990, 12 percent of the Nation's largest industrial facilities and 13 percent of municipalities were in significant noncompliance with the Clean Water Act.

Mr. President, I believe that independent audits of facilities with long histories of defying our environmental laws can help improve the record of poor compliance with our environmental laws, and send a clear message to environmental violators that they will need to take steps to ensure that systems are in place at their facilities to prevent future environmental offenses. The amendment offered by Senator WOFFORD is an important first step in introducing the concept of environmental audits into our laws and I congratulate him on showing this leadership.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, there are a number of Senators who wish to speak on the amendments that we just adopted.

I ask unanimous consent that anyone be permitted to speak on the amendments just adopted for the next 20 minutes, with no other business being in order.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object; which amendment?

Mr. BIDEN. The ones we just adopted.

Mr. STEVENS. All of them?

Mr. BIDEN. If they wish to speak to them.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I understand that the amendment by the distinguished Senator from Wisconsin [Mr. KOHL] has been modified on the line we suggested, and if that is the case, we have no further objection to that amendment.

Mr. STEVENS. Mr. President, what is the pending business?

The PRESIDING OFFICER. Under the previous order, for the next 19 minutes, debate is to be confined to the previous amendments adopted en bloc.

Mr. STEVENS. Who has the floor?

The PRESIDING OFFICER. The Senator from Alaska has the floor.

AMENDMENT NO. 566

Mr. STEVENS. Mr. President, while the Senator from Ohio is here, I would like to address some questions about his amendment, which was just adopted.

It is my understanding that the social or economic conditions or the situation of a prisoner cannot be considered for the purpose of assignment to a prison.

Having been a U.S. attorney, and having known a few U.S. attorneys who got in trouble, or marshals or judges, does that include the social status of a person based upon past employment, or are we to say that they cannot consider the condition of prisoners as they assign them to prisons based upon their social and economic condition in that sense? Is that what the Senator's amendment does?

Mr. METZENBAUM. I am not sure I understand what the question of the Senator from Alaska is. The thrust of my amendment is to say that the president of the XYZ Corp. should not be privileged to go to a fun prison, one where we have games and a lot of outdoor activities, as compared to prisoners who may commit crimes in the inner city and not be permitted to go to that kind of a prison.

The amendment addresses itself to the social or economic status of the prisoner.

Mr. STEVENS. Mr. President, if I have the floor, we have a time limitation.

I just want to say that I do not think this amendment had any hearings. I think it is going to cause the abuse and killing of some prisoners. The current assignment by the Bureau of Prisons, to my knowledge, has never been under attack on this floor. And this amendment comes along and is adopted, without anyone seeing it, on the basis of social and economic condition of the prisoner. That is precisely what they look at when they assign prisoners to jails.

I really believe the Senator from Ohio is going to be responsible for some deaths. I cannot believe that the Senate would adopt an amendment like that. I want to read it again:

* * * the Bureau may not consider the social or economic status of the prisoner in designating the place of the prisoner's imprisonment.

In addition to that, I know of several instances where young men and women have been assigned to specific prisons because they had a college background. That is a social and economic condition. Shall we put them all in the prisons where they have felons who have been convicted of violent crimes?

I think this attack on the Bureau of Prisons' policies ought to be examined, and I am chagrined that I have been trying to watch this floor, but I did not see this one. The Senate has already adopted it. I am going to go back and take a look at it. If that is not dropped in conference, I can assure the Senate we are going to go into this Metzenbaum amendment at length because it is wrong. It is wrong policy.

We should take into account the social and economic conditions of prisoners in determining where they are put. We should take into account their education status—that is social; their past experience in their jobs—that is economic. And may I tell you, if you try to take some past U.S. marshal that made a mistake, or deputy U.S. attorney, or U.S. attorney, or judge, and put him into a common prison where people are there, where they have convicted violent criminals, therein I think you have made a great, great mistake.

The Senate has made a mistake again in allowing the procedure of taking up these amendment without having them printed and being put on the desk.

I ask a parliamentary inquiry. Is there not a rule that says that these amendments have to be available prior to consideration?

The PRESIDING OFFICER. There is no such rule in the Senate.

Mr. STEVENS. I do not think this was ever proposed before it was adopted, before we had the agreement on it. It was not presented before the agreement was entered into. Is there not such a rule that it has to be at the desk before it can be considered and be the subject of an agreement?

The PRESIDING OFFICER. It is sufficient that the amendment be sent to

the desk at the time of its consideration.

Mr. STEVENS. It was not sent to the desk. I am not going to raise the point of order now, but I want the Senate to be on notice, if this amendment survives, there will have to be cloture on this bill when it comes out of conference.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio.

Mr. METZENBAUM. Mr. President, for the edification of my colleague from Alaska, let me say that this is not a surprise amendment. This amendment was in the hands of and circulated to both sides several days ago. It was discussed several days ago.

I have been informed indirectly, not directly, that the Justice Department is aware of the amendment and has cleared it. I do not know that for certain. I have been told that is the case.

I want to reiterate the point I made when the amendment was offered, and that is I think that prisoners ought not to receive special treatment just because they wear a white collar; just because they are rich; just because they have a better education than anybody else. I think prisoners ought to be treated on the basis of the crimes they have committed and not on their social and economic status.

I yield the floor.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—THE TREATY ON CONVENTIONAL ARMED FORCES IN EUROPE AND THE CONVENTION FOR A NORTH PACIFIC MARINE SCIENCE ORGANIZATION

Mr. MITCHELL. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from two treaties transmitted today to the Senate by the President: The Treaty on Conventional Armed Forces in Europe, Treaty Document No. 102–8, and the Convention for a North Pacific Marine Science Organization, Treaty Document No. 102–9.

I also ask unanimous consent that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Treaty on Conventional Armed Forces in Europe (CFE). The Treaty includes the following documents, which are integral parts thereof: the Protocol on Existing Types (with an Annex thereto), the Protocol on Aircraft Reclassification, the Protocol on Reduction, the Protocol on Helicopter Recategorization, the Protocol on Information Exchange (with an Annex on Format), the Protocol on Inspection, the Protocol on the Joint Consultative Group, and the Protocol on Provisional Application. The Treaty, together with the Protocols, was signed at Paris on November 19, 1990. I transmit also, for the information of the Senate, the Report of the Department of State on the Treaty.

In addition, I transmit herewith, for the information of the Senate, six documents associated with, but not part of, the Treaty that are relevant to the Senate's consideration of the Treaty: Statement by the Union of Soviet Socialist Republics, dated June 14, 1991; Statement by the Government of the United States of America, dated June 14, 1991, responding to the Statement by the Union of Soviet Socialist Republics (Statements identical in content were made by the 20 other signatory states on the same date. Copies of these Statements are also transmitted.); Declaration by the Government of the Federal Republic of Germany on the Personnel Strength of German Armed Forces, dated November 19, 1990; Declaration of the States Parties to the Treaty on Conventional Armed Forces in Europe With Respect to Personnel Strength, dated November 19, 1990; Declaration of the States Parties to the Treaty on Conventional Armed Forces in Europe With Respect to Land-Based Naval Aircraft, dated November 19, 1990; and Statement by the Representative of the Union of Soviet Socialist Republics to the Joint Consultative Group, dated June 14, 1991. The first two Statements are legally binding and constitute a separate international agreement, while the latter four documents represent political commitments.

The CFE Treaty is the most ambitious arms control agreement ever concluded. The complexities of negotiating a treaty involving 22 nations and tens of thousands of armaments spread over an area of more than two and a half million square miles were immense. Difficult technical issues such as definitions, counting rules, methods for destroying reduced equipment, and inspection rights were painstakingly negotiated.

The Treaty is the first conventional arms control agreement since World War II. It marks the first time in history that European nations, together with the United States and Canada, have agreed to reduce and numerically limit their land-based conventional military equipment, especially equipment necessary to conduct offensive operations. Significantly, the reductions will eliminate the overwhelming Soviet numerical advantage in conventional armaments that has existed in Europe for more than 40 years. The Treaty's limits enhance stability by ending force disparities, and they limit the capability for launching surprise attack and initiating large-scale offensive action in Europe.

The Treaty contains a wide-ranging verification regime. Under this regime, in which intrusive on-site inspection complements national technical means to monitor compliance, ground and air forces of the participating states in the area of application of the Treaty will be subject to inspection, either at declared sites or with challenge inspections. The Treaty also provides for a detailed information exchange on the command organization of each participating state's land, air, and air defense forces as well as information about the number and location of each participating state's military equipment, subject to the limitations and other provisions of the Treaty. This information will be updated periodically and as significant changes to such data and reductions of equipment take place.

The military equipment to be reduced and limited consists of battle tanks, armored combat vehicles, artillery, attack helicopters, and combat aircraft in service with the conventional armed forces of the States Parties in Europe from the Atlantic to the Urals. Inclusion of the Baltic military district within the area of application of Treaty ensures that the Treaty's limits apply comprehensively to all Soviet forces within the area. This does not represent any change in the longstanding U.S. policy of nonrecognition of the forcible incorporation of the Baltic States into the Soviet Union. At the conclusion of the 40-month reduction period, the numerical limits on this equipment in the area of application for each group of participating states will be as follows: 20,000 battle tanks, 30,000 armored combat vehicles, 20,000 pieces of artillery, 2,000 attack helicopters, and 6,800 combat aircraft. All military equipment subject to and in excess of these limits that was in the area of application at the time of Treaty signature or entry into force (whichever amount is greater) must be destroyed or, within specified limits, converted to nonmilitary or other purposes. Subceilings are established for specific geographical zones within the area of application, the purpose of these being to thin out forces on the central front while forestalling buildups in the flank areas. Under the so-called "sufficiency rule" of the Treaty,

no State Party may hold more than approximately one-third of the total amount of equipment in these five categories permitted within the area of application as a whole.

Above and beyond eliminating force disparities and limiting the capability for launching large-scale offensive action, the CFE Treaty will be of major importance in laying the indispensable foundation for the post-Cold War security architecture in Europe. Only with this foundation in place can we move from a European security order based on confrontation to one based on cooperation.

I believe that the CFE Treaty is in the best interests of the United States and represents an important step in defining the new security regime in Europe. It achieves unprecedented arms reductions that strengthen U.S., Canadian, and European security. Therefore, I urge the Senate to give early and favorable consideration to the Treaty and its related Protocols and Annexes, and to give advice and consent to its ratification.

GEORGE BUSH.

THE WHITE HOUSE, *July 9, 1991.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Convention for a North Pacific Marine Science Organization (PICES), which was done at Ottawa on December 12, 1990, and signed by the United States on May 28, 1991. I transmit also, for the information of the Senate, the report by the Department of State with respect to the Convention.

I believe that the new organization to be created by the Convention will contribute significantly to understanding the role of the ocean in global change as well as address other pressing scientific problems in the northern North Pacific Ocean region. Since understanding global change is one of my highest scientific priorities, I believe that it is very important that the United States ratify the Convention in time to participate formally in the initial work of the organization.

PICES would advance scientific knowledge of the region's interactions between the ocean, atmosphere, and land, their role in and response to global weather and climate change, impacts on flora, fauna, ecosystems, and their uses, and responses to human activities, filling the current need for such coordination and cooperation in scientific research in the region. This may include:

—regional aspects of some global change research;
—research on living resources and their ecosystems, broader than traditional fisheries research, resulting in a sound scientific basis for taking living resource management decisions (although PICES itself would not deal with management);
—research on pollution and environmental quality; and
—other research that requires broad coordination and an interdisciplinary approach, including identification of pressing research problems and planning research programs, developing and coordinating multinational research projects, promoting exchange of scientific data and information, and organizing scientific workshops and symposia.

Canada, the People's Republic of China, Japan, the Union of Soviet Socialist Republic, and the United States cooperated in the development of the Convention, which will enter into force following ratification, acceptance, or approval by three of the possible five signatory States. It is anticipated that the Convention will enter into force before the end of 1992. A few nonsignatory nations are expected to accede to the Convention after it has entered into force.

I recommend that the Senate give early and favorable consideration to the Convention and give its advice and consent to ratification.

GEORGE BUSH.

THE WHITE HOUSE, *July 9, 1991.*

MINORITY PARTY CHANGE IN COMMITTEES

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 152) to make a minority party change in committees.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 152) was agreed to, as follows:

S. RES. 152

Resolved, That the following Senator shall be added to the minority party's membership on the Committee on Foreign Relations for the One Hundred Second Congress or until their successors are appointed:

Mr. Jeffords.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

L. DOUGLAS ABRAM FEDERAL BUILDING

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 133, S. 276, designating a Federal building in St. Louis.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 276) to designate the Federal building located at 1520 Market Street in St. Louis, Missouri as the "L. Douglas Abram Federal Building".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 568

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator CHAFEE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. CHAFEE, proposes an amendment numbered 568.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert a new section:

"SEC. . CONTINUATION OF AUTHORIZATION.

( ) Notwithstanding section 1001(a) of the Water Resources Development Act of 1986, the project for navigation, Providence, Rhode Island, authorized by section 1166(c) of the Water Resources Development Act of 1986, shall remain authorized to be carried out by the Secretary. The project described in subsection (a) shall not be authorized for construction after the last day of the five-year period that begins on the date of the enactment of this Act unless, during this period, funds have been obligated for construction (including planning and design) of the project."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 568) was agreed to.

The PRESIDING OFFICER. If there are no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as amended, as follows:

S. 276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 1520 Market Street, St. Louis, Missouri shall hereafter be known and designated as the "L. Douglas Abram Federal Building". Any reference in law, map, regu-

lation, document, record, or other paper of the United States shall be deemed to be a reference to the "L. Douglas Abram Federal Building".

SEC. 2. CONTINUATION OF AUTHORIZATION.

Notwithstanding section 1001(a) of the Water Resources Development Act of 1986, the project for navigation, Providence, Rhode Island, authorized by section 1166(c) of the Water Resources Development Act of 1986, shall remain authorized to be carried out by the Secretary. The project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during this period, funds have been obligated for construction, including planning and design, of the project.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION ACT OF 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 122, S. 1012, the National Highway Traffic Safety Administration Authorization Act of 1991.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1012) to authorize appropriation for the activities and programs of the National Highway Traffic Safety Administration, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 1012

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Highway Traffic Safety Administration Authorization Act of 1991".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons;

(2) "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry 10 persons or fewer, which is constructed either on a truck chassis or with special features for occasional off-road operation;

(3) "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer), designed for carrying 10 persons or fewer;

(4) "Secretary" means the Secretary of Transportation; and

(5) "truck" means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

GENERAL AUTHORIZATIONS

SEC. 101. (a) TRAFFIC AND MOTOR VEHICLE SAFETY PROGRAM.—For the National Highway Traffic Safety Administration to carry out the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), there are authorized to be appropriated $68,722,000 for fiscal year 1992, $71,333,436 for fiscal year 1993, and $74,044,106 for fiscal year 1994.

(b) MOTOR VEHICLE INFORMATION AND COST SAVINGS PROGRAMS.—For the National Highway Traffic Safety Administration to carry out the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), there are authorized to be appropriated $6,485,000 for fiscal year 1992, $6,731,430 for fiscal year 1993, and $6,987,224 for fiscal year 1994.

(c) NATIONAL DRIVER REGISTER ACT.—Section 211(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by striking "and" the second time it appears; and

(2) by inserting immediately before the period at the end the following: **[**"not**]** ", *not* to exceed $6,131,000 for fiscal year 1992, not to exceed $6,363,978 for fiscal year 1993, and not to exceed $6,605,809 for fiscal year 1994".

(d) NHTSA HIGHWAY SAFETY PROGRAMS.—For the National Highway Traffic Safety Administration to carry out section 402 of title 23, United States Code, there are authorized to be **[**appropriated**]** *appropriated, out of the Highway Trust Fund (other than the Mass Transit Account),* $126,000,000 for fiscal year 1992, $130,788,000 for fiscal year 1993, $135,757,944 for fiscal year 1994, $140,916,745 for fiscal year 1995, and $146,271,573 for fiscal year 1996.

(e) NHTSA HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For the National Highway Traffic Safety Administration to carry out section 403 of title 23, United States Code, there are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $45,869,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996.

INTELLIGENT VEHICLE-HIGHWAY SYSTEMS

SEC. 102. The Secretary shall **[**expand**]** *expend* the sums authorized under section 101(e) as the Secretary deems necessary for the purpose of conducting research on intelligent vehicle-highway systems. The Secretary shall develop a strategic plan with specific milestones, goals, and objectives for that research. The research should place particular emphasis on aspects of those systems that will increase safety, and should identify any aspects of the systems that might degrade safety.

TITLE II—REQUIREMENTS FOR VEHICLES

SIDE IMPACT PROTECTION

SEC. 201. (a) AMENDMENT OF FMVSS STANDARD 214.—The Secretary shall, not later than 12 months after the date of enactment of this Act, issue a final rule amending Federal Motor Vehicle Safety Standard 214, published as section 571.214 of title 49, Code of Federal Regulations. The rule shall establish performance criteria for improved head injury protection for occupants of passenger cars in side impact accidents.

(b) EXTENSION TO MULTIPURPOSE PASSENGER VEHICLES.—Not later than 18 months after the date of enactment of this Act, the Secretary shall issue a final rule to extend the applicability of such **[**standard**]** *Standard* 214 to multipurpose passenger vehicles, taking into account the performance criteria established by the final rule issued in accordance with subsection (a).

AUTOMOBILE CRASHWORTHINESS DATA

SEC. 202. (a) STUDY AND INVESTIGATION.—(1) The Secretary shall, within 30 days after the date of enactment of this Act, enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation regarding means of establishing a method for calculating a uniform numerical rating, or series of ratings, which will enable consumers to compare meaningfully the crashworthiness of different passenger car and multipurpose passenger vehicle makes and models.

(2) Such study shall include examination of current and proposed crashworthiness tests and testing procedures and shall be directed to determining whether additional objective, accurate, and relevant information regarding the comparative crashworthiness of different passenger car and multipurpose passenger vehicle makes and models reasonably can be provided to consumers by means of a crashworthiness rating rule. Such study shall include examination of at least the following proposed elements of a crashworthiness rating **[**rule—**]** *rule:*

(A) information on the degree to which different passenger car and multipurpose passenger vehicle makes and models will protect occupants across the range of motor vehicle crash types when in use on public roads;

(B) a repeatable and objective test which is capable of identifying meaningful differences in the degree of crash protection provided occupants by the vehicles tested, with respect to such aspects of crashworthiness as occupant crash protection with and without use of manual seatbelts, fuel system integrity, and other relevant aspects;

(C) ratings which are accurate, simple in form, readily understandable, and of benefit to consumers in making informed decisions in the purchase of automobiles;

(D) **[**dissemination**]** *dissemination* of comparative crashworthiness ratings to consumers either at the time of introduction of a new passenger car or multipurpose passenger vehicle make or model or very soon after such time of introduction; and

(E) the development and dissemination of crashworthiness data at a cost which is reasonably balanced with the benefits of such data to consumers in making informed purchase decisions.

(3) Any such arrangement shall require the National Academy of Sciences to report to the Secretary and the Congress not later than 19 months after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall, to the extent permitted by law, furnish to the Academy upon its request any information which the Academy considers necessary to conduct the investigation and study required by this subsection.

(4) Within 60 days after transmittal of the report of the National Academy of Sciences to the Secretary and the Congress under paragraph (3), the Secretary shall initiate a period (not longer than 90 days) for public comment on implementation of the rec-

ommendations of the National Academy of Sciences with respect to a rule promulgated under title II of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passengers cars and multipurpose passenger vehicles.

(5) Not later than 180 days after the close of the public comment period provided for in paragraph (4) of this subsection, the Secretary shall determine, on the basis of the report of the National Academy of Sciences and the public comments on such report, whether an objectively based system can be established by means of which accurate and relevant information can be derived that reasonably predicts the degree to which different makes and models of passenger cars and multipurpose passenger vehicles provide protection to occupants against the risk of personal injury or death as a result of motor vehicle accidents. The Secretary shall promptly publish the basis of such determination, and shall transmit such determination to the Congress.

(b) RULE ON COMPARATIVE CRASHWORTHINESS RATING SYSTEM.—(1) If the Secretary determines that the system described in subsection (a)(5) can be established, the Secretary shall, subject to the exception provided in paragraph (2), not later than 3 years after the date of enactment of this Act, promulgate a final rule under section 201 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1941) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger cars and multipurpose passenger vehicles. The rule promulgated under such section 201 shall be practicable and shall provide to the public relevant objective information in a simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger cars and multipurpose passenger vehicles so as to contribute meaningfully to informed purchase decisions.

(2) The Secretary shall not promulgate such rule unless—

(A) a period of 60 calendar days has passed after the Secretary has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a summary of the comments received during the period for public comment specified in subsection (a)(4); or

(B) each such committee before the expiration of such 60-day period has transmitted to the Secretary written notice to the effect that such committee has no objection to the promulgation of such rule.

(c) RULE ON PROVIDING CRASHWORTHINESS INFORMATION TO PURCHASERS.—If the Secretary promulgates a rule under subsection (b), not later than 6 months after such promulgation, the Secretary shall by rule establish procedures requiring passenger cars and multipurpose passenger vehicle dealers to make available to prospective passenger car and multipurpose passenger vehicle purchasers information developed by the Secretary and provided to the dealer which contains data comparing the crashworthiness of passenger cars and multipurpose passenger vehicles.

STANDARDS COMPLIANCE

SEC. 203. Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end [of] the following new subsection:

"(j)(1) The Secretary shall establish a schedule for use in ensuring compliance with each Federal motor vehicle safety standard established under this Act which the Secretary determines is capable of being tested. Such schedule shall ensure that each such standard is the subject of testing and evaluation on a regular, rotating basis.

"(2) The Secretary shall, not later than 6 months after the date of enactment of this subsection, conduct a review of the method for the collection of data regarding accidents related to Federal motor vehicle safety standards established under this Act. The Secretary shall consider the desirability of collecting data in addition to that information collected as of the date of enactment of this subsection, and shall estimate the costs involved in the collection of such additional data, as well as the benefits to safety likely to be derived from such collection. If the Secretary determines that such benefits outweigh the costs of such collection, the Secretary shall collect such additional data and utilize it in determining which motor vehicles should be the subject of testing for compliance with Federal motor vehicle safety standards established under this Act.".

INVESTIGATION AND PENALTY PROCEDURES

SEC. 204. (a) INVESTIGATION PROCEDURES.—Section 112(a)(1) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1401(a)(1)) is amended by adding at the end the following: "The Secretary shall establish written guidelines and procedures for conducting any inspection or investigation regarding noncompliance with this title or any rules, regulations, or orders issued under this title. Such guidelines and procedures shall indicate timetables for processing of such inspections and investigations to ensure that such processing occurs in an expeditious and thorough manner. In addition, the Secretary shall develop criteria and procedures for use in determining when the results of such an investigation should be considered by the Secretary to be the subject of a civil penalty under section 109 of this title. Nothing in this paragraph shall be construed to limit the ability of the Secretary to exceed any time limitation specified in such timetables where the Secretary determines that additional time is necessary for the processing of any such inspection or investigation.".

(b) CIVIL PENALTY PROCEDURES.—Section 109(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1398(a)) is amended by adding at the end the following: "The Secretary shall establish procedures for determining the manner in which, and the time within which, a determination should be made regarding whether a civil penalty should be imposed under this section. Nothing in this subsection shall be construed to limit the ability of the Secretary to exceed any time limitation specified for making any such determination where the Secretary determines that additional time is necessary for making a determination regarding whether a civil penalty should be imposed under this section.".

MULTIPURPOSE PASSENGER VEHICLE SAFETY

SEC. 205. (a) FINDINGS.—The Congress finds that—

(1) multipurpose passenger vehicles have become increasingly popular during this decade and are being used increasingly for the transportation of passengers, not property; and

(2) the safety passengers in multipurpose passenger vehicles has been compromised by the failure to apply to them the Federal motor vehicle safety standards applicable to passenger cars.

(b) RULEMAKING PROCEEDING.—(1) In accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms, the Secretary shall, not later than 12 months after the date of enactment of this Act, complete a rulemaking proceeding to review the system of classification of vehicles with a gross vehicle weight under 10,000 pounds to determine if such vehicles should be reclassified.

(2) Any reclassification pursuant to paragraph (1) shall, to the maximum extent practicable, classify as a passenger car every motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor car or other motor vehicle principally designed for the transport of persons under heading 8703 of the Harmonized Tariff Schedule of the United States. Nothing in this section shall prevent the Secretary from classifying as a passenger car any motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor vehicle for the transport of goods under heading 8704 of such Harmonized Tariff Schedule.

ROLLOVER PROTECTION

SEC. 206. The Secretary shall, within 12 months after the date of enactment of this Act, complete a rulemaking proceeding to consider establishment of a Federal Motor Vehicle Safety Standard to protect against unreasonable risk of rollover of passenger cars and multipurpose passenger vehicles.

REAR SEATBELTS

SEC. 207. The Secretary shall expend such portion of the funds authorized to be appropriated under the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), for each of the fiscal years 1992 and 1993, as the Secretary deems necessary for the purpose of disseminating information to consumers regarding the manner in which passenger cars may be retrofitted with lap and shoulder rear seatbelts.

IMPACT RESISTANCE CAPABILITY OF BUMPERS

SEC. 208. (a) DISCLOSURE OF BUMPER IMPACT CAPABILITY.—The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by inserting immediately after section 102 the following new subsection:

"DISCLOSURE OF BUMPER IMPACT CAPABILITY

"SEC. 102A. (a) The Secretary shall promulgate, in accordance with the provisions of this section, a regulation establishing passenger motor vehicle bumper system labeling requirements. Such regulation shall apply to passenger motor vehicles manufactured for model years beginning more than 180 days after the date such regulation is promulgated, as provided in subsection (c)(2) of this section.

"(b)(1) The regulation required to be promulgated in subsection (a) of this section shall provide that, before any passenger motor vehicle is offered for sale, the manufacturer shall affix a label to such vehicle, in a format prescribed in such regulation, disclosing an impact speed at which the manufacturer represents that the vehicle meets the applicable damage criteria.

"(2) For purposes of this subsection, the term 'applicable damage criteria' means the damage criteria applicable under section

581.5(c) of title 49, Code of Federal Regulations (as in effect on the date of enactment of this section).

"(c)(1) Not later than 90 days after the date of enactment of this section, the Secretary shall publish in the Federal Register a proposed initial regulation under this section.

"(2) Not later than 180 days after such date of enactment, the Secretary shall promulgate a final initial regulation under this section.

"(d) The Secretary may allow a manufacturer to comply with the labeling requirements of subsection (b) of this section by permitting such manufacturer to make the bumper system impact speed disclosure required in subsection (b) of this section on the label required by section 506 of this Act or section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(e) The regulation promulgated under subsection (a) of this section shall provide that the information disclosed under this section be provided to the Secretary at the beginning of the model year for the model involved. As soon as practicable after receiving such information, the Secretary shall furnish and distribute to the public such information in a simple and readily understandable form in order to facilitate comparison among the various types of passenger vehicles. The Secretary may by rule require automobile dealers to distribute to prospective purchasers any information compiled pursuant to this subsection.

"(f) For purposes of this section, the term 'passenger motor vehicle' means any motor vehicle to which the standard under part 581 of title 49, Code of Federal Regulations, is applicable.".

(b) AMENDMENT OF BUMPER STANDARD.—(1) Not later than 1 year after the date of enactment of this Act, the Secretary shall amend the bumper standard published as part 581 of title 49, Code of Federal Regulations, to ensure that such standard is identical to the bumper standard under such part 581 which was in effect on January 1, 1982. The amended standard shall apply to all passenger cars manufactured after September 1, 1992.

(2) Nothing in this subsection shall be construed to prohibit the Secretary from requiring under such part 581 that passenger car bumpers be capable of resisting impact speeds higher than those specified in the bumper standard in effect under such part 581 on January 1, 1982.

CHILD BOOSTER SEATS

SEC. 209. (a) IN GENERAL.—In accordance with applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall conduct a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard 213, published as section 571.213 of title 49, Code of Federal Regulations, to increase the safety of child booster seats used in passenger cars. The proceeding shall be initiated not later than 30 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

(b) DEFINITION.—As used in this section, the term "child booster seat" has the meaning given the term "booster seat" in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

AIRBAG REQUIREMENTS

SEC. 210. (a) AIRBAGS FOR CARS ACQUIRED FOR FEDERAL USE.—The Secretary, in cooperation with the Administrator of General Services and the heads of other appropriate Federal agencies, shall establish a program requiring that all passenger cars acquired after September 30, 1991, for use by the Federal Government be equipped, to the maximum extent practicable, with driver-side airbags and that all passenger cars acquired after September 30, 1993, for use by the Federal Government be equipped, to the maximum extent practicable, with airbags for both the driver and front seat outboard seating positions.

(b) AIRBAGS FOR CERTAIN OTHER VEHICLES.—(1) Passenger cars, and those trucks, buses, and multipurpose passenger vehicles that have a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less, shall, in accordance with the following schedule, be equipped with airbags complying with the occupant crash protection requirements under S4.1.2.1 of Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations:

(A) All passenger cars manufactured on and after September 1, 1995, shall be so equipped for both the driver and right front seat outboard seating positions.

(B) All such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1996, and before September 1, 1997, shall, at a minimum, be so equipped for the driver side.

(C) All such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1997, shall be so equipped for both the driver and right front seat outboard seating positions.

(2) For purposes of sections 108 through 112, 114, 115, 116, 118, 120, 121, and 151 through 158 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1397 through 1401, 1403, 1404, 1405, 1406, 1408, 1409, and 1411 through 1418), the requirements of paragraph (1) of this subsection are deemed to be a Federal motor vehicle safety standard prescribed pursuant to section 103 of that Act (15 U.S.C. 1392).

STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

SEC. 211. Part A of title III of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1961 et seq.) is amended by adding at the end the following new section:

"STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

"SEC. 304. (a) The Congress finds that—

"(1) State motor vehicle safety inspection programs, when properly administered, can reduce the rate of highway traffic accidents by a significant percentage;

"(2) the 1990 amendments to the Clean Air Act will subject approximately 60 percent of the vehicles in the United States to emissions inspection;

"(3) as States plan to implement the requirement for emissions inspections, there is considerable potential for simultaneously and economically implementing effective motor vehicle safety inspection programs; [and]

"(4) the Secretary, as part of the effort to reduce highway accidents, should make every effort to ensure that the potential for effective State motor vehicle safety inspection programs is realized; *and*

"(5) the Secretary and the Administrator of the Environmental Protection Agency shall coordinate their efforts so as to ensure maximum coordination of motor vehicle safety inspections and required emissions inspections.

"(b) The Secretary shall, within six months after the date of enactment of this section and every year thereafter, submit a report to Congress detailing the efforts of the Secretary to ensure that State motor vehicle safety inspection programs are implemented in the most effective manner possible. The report shall—

"(1) specify Federal manpower allocations for support of State motor vehicle safety inspection efforts;

"(2) specify allocations and expenditures of Federal funds on such efforts;

"(3) describe the extent and effect of the coordination by the Secretary and the Administrator of the Environmental Protection Agency of their respective efforts regarding motor vehicle safety inspection and required emissions inspections, and of the coordination of State motor vehicle safety inspections and emissions inspections;

"(4) list the States that do not have a periodic safety inspection program for motor vehicles that meets the requirements of Highway Safety Program Standard Number 1 and part 570 of title 49, Code of Federal Regulations; and

"(5) include any data, furnished by the States that do operate such safety inspection programs, that concerns the relative effectiveness of their particular programs.".

RECALL OF CERTAIN MOTOR VEHICLES

SEC. 212. (a) NOTIFICATION OF DEFECT OR FAILURE TO COMPLY.—Section 153 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413) is amended by adding at the end the following new subsections:

"(d) If the Secretary determines that a notification sent by a manufacturer pursuant to subsection (c) of this section has not resulted in an adequate number of vehicles or items of equipment being returned for remedy, the Secretary may direct the manufacturer to send a second notification in such manner as the Secretary may by regulation prescribe.

"(e)(1) Any lessor who receives a notification required by section 151 or 152 pertaining to any leased motor vehicle shall send a copy of such notice to the lessee in such manner as the Secretary may by regulation prescribe.

"(2) For purposes of this subsection, the term 'leased motor vehicle' means any motor vehicle which is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the 12 months preceding the date of the notification.".

(b) LIMITATION ON SALE OR LEASE OF CERTAIN VEHICLES.—Section 154 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1414) is amended by adding at the end the following:

"(d) If notification is required under section 151 or by an order under section 152(b) and has been furnished by the manufacturer to a dealer of motor vehicles with respect to any new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification which fails to comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, such dealer may sell or lease such motor vehicle or item of replacement equipment only if—

"(1) the defect or failure to comply has been remedied in accordance with this section before delivery under such sale or lease; or

"(2) in the case of notification required by an order under section 152(b), enforcement of the order has been restrained in an action to which section 155(a) applies or such order has been set aside in such an action.

Nothing in this subsection shall be construed to prohibit any dealer from offering for sale or lease such vehicle or item of equipment.".

DARKENED WINDOWS

SEC. 213. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding on the use of darkened windshields and window glass in passenger cars and multipurpose passenger vehicles, including but not limited to the issues of—

(1) the harmonization of light transmittance requirements for multipurpose passenger vehicles with light transmittance requirements for passenger cars;

(2) performance requirements for light transmittance; and

(3) appropriate levels of light transmittance.

The proceeding shall consider the effects of such issues in the context of the safe operation of passenger cars and multipurpose passenger vehicles, as well as on the hazards to the safety of law enforcement personnel as a result of such use of darkened windshields and window glass.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 6 months after the date of enactment of this Act and completed not later than 18 months after the date of enactment.

GRANT PROGRAM CONCERNING USE OF SEATBELTS AND CHILD RESTRAINT SYSTEMS

SEC. 214. (a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 411. Seatbelt and child restraint programs

"(a) Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement seatbelt and child restraint programs which include measures described in this section to foster the increased use of seatbelts and the correct use of child restraint systems. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for seatbelt and child restraint programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this section.

"(c) No State may receive grants under this section in more than 3 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the seatbelt and child restraint program adopted by the State pursuant to subsection (a) of this section;

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) Subject to subsection (c), the amount of a grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) of this section shall equal 20 percent of the amount apportioned to such State for fiscal year 1991 under section 402.

"(e) A State is eligible for a grant under this section if such State—

"(1) has in force and effect a law requiring all [front seat] *such* occupants of a passenger car to use seatbelts;

"(2) has achieved—

"(A) in the year immediately preceding a first-year grant, the lesser of either (i) 70 percent seatbelt use by all front seat occupants of passenger cars in the State or (ii) a rate of seatbelt use by all such occupants that is 20 percentage points higher than the rate achieved in 1990;

"(B) in the year immediately preceding a second-year grant, the lesser of either (i) 80 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 35 percentage points higher than the rate achieved in 1990; and

"(C) in the year immediately preceding a third-year grant, the lesser of either (i) 90 percent seatbelt use by all [front seat] *such* occupants or (ii) the rate of seatbelt use by all such occupants that is 45 percentage points higher than the rate achieved in 1990; and

"(3) has in force and effect an effective program, as determined by the Secretary, for encouraging the correct use of child restraint systems.

"(f) As used in this section, the term 'child restraint system' has the meaning given such term in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(g) There are authorized to be appropriated, from any funds in the Treasury not otherwise appropriated, to carry out this section, $10,000,000 for the fiscal year 1991, and $20,000,000 for each of the fiscal years 1992 and 1993.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

["411. Seatbelt and child restraint programs.".]

"411. Seatbelt and child restraint programs.".

METHODS OF REDUCING HEAD INJURIES

SEC. 215. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider methods of reducing head injuries in passenger cars and multipurpose passenger vehicles from contact with vehicle interior components, including those in the head impact area as defined in section 571.3(b) of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act, and to revise the Federal motor vehicle safety standards as appropriate.

(b) DEADLINES.—The proceeding required under subsection (a) shall be initiated not less than 60 days after the date of enactment of this Act and completed not later than 2 years after such date of enactment.

PEDESTRIAN SAFETY

SEC. 216. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider the establishment of a standard to minimize pedestrian death and injury, including injury to the head, thorax, and legs, attributable to vehicle components.

(b) DEADLINES.—The proceeding required under subsection (a) shall be initiated not later than 6 months after the date of enactment of this Act and completed not later than 2 years after such date of enactment.

DAYTIME RUNNING LIGHTS

SEC. 217. (a) RULEMAKING PROCEEDING.—Not later than 12 months after the date of enactment of this Act, the Secretary shall complete a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard 108, published as section 571.108 of title 49, Code of Federal Regulations, to authorize passenger cars and multipurpose passenger vehicles to be equipped with daytime running lights, notwithstanding any State law or regulation that affects the use of such lights.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the safety implications of the use of such lights in the United States, including the recommendations of the Secretary concerning whether to require passenger cars and multipurpose passenger vehicles to be equipped with such lights.

ANTILOCK BRAKE SYSTEMS

SEC. 218. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding concerning whether to adopt a Federal motor vehicle safety standard requiring antilock brake systems for all passenger cars and multipurpose passenger vehicles manufactured after September 1, 1996.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

HEADS-UP DISPLAYS

SEC. 219. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider the establishment of a standard requiring that passenger cars and multipurpose passenger vehicles shall be equipped with heads-up displays capable of projecting speed, fuel, and other instrument readings on the lower part of the windshield, enabling the driver to check such readings without looking down.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

SAFETY BELT DESIGN

SEC. 220. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider whether to amend any existing standard applicable to seatbelts, as published under part 571 of title 49, Code of Federal Regulations, for modification of seatbelt design in order to take into account the needs of children and short adults.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

CRITERIA FOR STANDARDS

SEC. 221. Any standard established under a proceeding required by sections 206, 213, 215, 216, 217, 218, 219, or 220 shall be in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 [(16] (*15* .S.C. 1381 et seq.), including the provisions of section 103(a) of that Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

TITLE III—[HIGHWAY TRAFFIC SAFETY] *IMPAIRED DRIVING ENFORCEMENT*

SHORT TITLE

SEC. 301. This title may be cited as the "Impaired Driving Prevention Act of 1991".

[IMPAIRED DRIVING ENFORCEMENT] *AMENDMENT TO TITLE 23, UNITED STATES CODE*

SEC. 302. (a) ESTABLISHMENT OF GRANT PROGRAM.—Chapter 4 of title 23, United States Code, is amended by inserting immediately after section 404 the following new section:

"§ 405. Impaired driving enforcement programs

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary

shall make basic and supplemental grants to those States which adopt and implement impaired driving enforcement programs which include measures, described in this section, to improve the effectiveness of the enforcement of laws to prevent impaired driving. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for impaired driving enforcement programs at or above the average level of such expenditures in its 2 fiscal years preceding the fiscal year in which this section is enacted.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 5 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the impaired driving enforcement program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF BASIC GRANTS.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) shall equal 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title.

"(e) ELIGIBILITY FOR BASIC GRANTS.—

"(1) GENERAL.—For purposes of this section, a State is eligible for a basic grant if such State—

"(A) provides for a program (funded at the level required under paragraph (2)) to conduct highway checkpoints for the detection *and deterrence* of persons who operate motor vehicles while under the influence of alcohol or a controlled substance, including the training, manpower, and equipment associated with the conduct of such checkpoints;

"(B) provides for a program (funded at the level required under paragraph (2)) to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol or a controlled substance and in effectively prosecuting those persons, and to train personnel in the use of that equipment;

"(C) establishes an expedited driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(i) when a law enforcement officer has probable cause under State law to believe a person has committed an alcohol-related traffic offense and such person is determined, on the basis of a chemical test, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer shall serve such person with a written notice of suspension or revocation of the driver's license of such person and take possession of such driver's license;

"(ii) the notice of suspension or revocation referred to in clause (i) shall provide information on the administrative procedures under which the State may suspend or revoke in accordance with the objectives of this section a driver's license of a person for operating a motor vehicle while under the influence of alcohol and shall specify any rights of the operator under such procedures;

"(iii) the State shall provide, in the administrative procedures referred to in clause (ii), for due process of law, including the right to an administrative review of a driver's license suspension or revocation within the time period specified in clause (vi);

"(iv) after serving notice and taking possession of a driver's license in accordance with clause (i), the law enforcement officer immediately shall report to the State entity responsible for administering **[drivers licenses']** *drivers' licenses* all information relevant to the action taken in accordance with this clause;

"(v) in the case of a person who, in any 5-year period beginning after the date of enactment of this section, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by the law enforcement officer, the State entity responsible for administering **[driver's]** *drivers'* licenses, upon receipt of the report of the law enforcement officer—

"(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(vi) the suspension and revocation referred to under clause (iv) shall take effect not later than 30 days after the day on which the person first received notice of the suspension or revocation in accordance with clause (ii);

"(D) requires that any person with a blood alcohol concentration equal to or greater than the following percentage when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol:

"(i) 0.10 percent for each of the first 3 fiscal years in which a basic grant is received; and

"(ii) 0.08 percent for each of the last 2 fiscal years in which a basic grant is received;

"(E) enacts a statute which provides that—

"(i) any person convicted of a first violation of driving under the influence of alcohol shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of alcohol within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of alcohol within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of alcohol shall receive a mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license; and

"(F) provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines and surcharges collected from persons **[convicted of operating]** *by reason of their operation of* a motor vehicle while under the influence of alcohol are returned, or an equivalent amount of non-Federal funds are provided, to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

"(2) REQUIRED FUNDING LEVELS.—The funding level for the program described in paragraph (1)(A), and for the program described in paragraph (1)(B), shall be an amount equal to or greater than—

"(A) the average level of expenditures by the State for such program in its 2 fiscal years preceding the date of enactment of this section, plus

"(B) 2.4 percent of the amount apportioned to the State for fiscal year 1989 under section 402 of this title.

"(3) WAIVER FOR REDUCED FATALITIES.—If the rate of alcohol-related fatalities (as defined in the Fatal Accident Reporting System of the National Highway Traffic Safety Administration) in a State decreases by an average of 3 percent per calendar year for the 5 consecutive calendar years prior to the fiscal year for which the State would receive a basic grant under this section, the Secretary may waive for that State the basic grant eligibility requirements of one subparagraph among subparagraphs (A) through (F) of paragraph (1).

"(f) SUPPLEMENTAL GRANT PROGRAM.—

"(1) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c) of this section, not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in an accident resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

"(2) PROGRAM FOR PREVENTING DRIVERS UNDER AGE 21 FROM OBTAINING ALCOHOLIC BEVERAGES.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for and increases its enforcement of an effective system for preventing **[operators of motor vehicles]** *persons* under age 21 from obtaining alcoholic beverages, which may include the issuance of drivers' licenses to persons under age 21 that are easily distinguishable in appearance from drivers' licenses issued to persons 21 years of age and older.

"(3) DRUGGED DRIVING PREVENTION.—For purposes of this section, a State is eligible

for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—

"(A) provides for laws concerning drugged driving under which—

"(i) a person shall not drive or be in actual physical control of a motor vehicle while under the influence of alcohol, a controlled substance or combination of controlled substances, or any combination of alcohol and controlled substances;

"(ii) any person who operates a motor vehicle upon the highways of the State shall be deemed to have given consent to a test or tests of his or her blood, breath, or urine for the purpose of determining the blood alcohol concentration or the presence of controlled substances in his or her body;

"(iii) the driver's license of a person shall be suspended promptly, for a period of not less than 90 days in the case of a first offender and not less than 1 year in the case of any repeat offender, when a law enforcement officer has probable cause under State law to believe such person has committed a traffic offense relating to controlled substances use, and such person (I) is determined, on the basis of 1 or more chemical tests, to have been under the influence of controlled substances while operating a motor vehicle, or (II) refuses to submit to such a test as proposed by the officer;

"(B) enacts a statute which provides that—

"(i) any person convicted of a first violation of driving under the influence of controlled substances or alcohol, or both, shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of controlled substances or alcohol, or both, shall receive a mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license;

"(C) provides for an effective system, as determined by the Secretary, for—

"(i) the detection of driving under the influence of controlled substances;

"(ii) the administration of a chemical test or tests to any driver who a law enforcement officer has probable cause to believe has committed a traffic offense relating to controlled substances use; and

"(iii) in instances where such probable cause exists, the prosecution of (I) those who are determined, on the basis of 1 or more chemical tests, to have been operating a motor vehicle while under the influence of controlled substances and (II) those who refuse to submit to such a test as proposed by a law enforcement officer; and

"(D) has in effect two of the following programs:

"(i) an effective educational program, as determined by the Secretary, for the prevention of driving under the influence of controlled substances;

"(ii) an effective program, as determined by the Secretary, for training law enforcement officers to detect driving under the influence of controlled substances; and

"(iii) an effective program, as determined by the Secretary, for the rehabilitation and treatment of those convicted of driving under the influence of controlled substances.

"(4) BLOOD ALCOHOL CONCENTRATION STANDARD.—For purposes of this section, a State is eligible for a supplemental grant (only for any of the first 3 fiscal years in which a basic grant is received) in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that any person with a blood alcohol concentration of 0.08 or greater when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol.

"(5) UNLAWFUL OPEN CONTAINER AND CONSUMPTION OF ALCOHOL PROGRAMS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

"(A) as allowed in the passenger area, by persons (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

"(B) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger area.

"(6) SUSPENSION OF REGISTRATION AND RETURN OF LICENSE PLATE PROGRAM.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for the suspension of the registration of, and the return to such State of the license plates for, any motor vehicle owned by an individual who—

"(A) has been convicted on more than 1 occasion of an alcohol-related traffic offense within any 5-year period after the date of enactment of this section; or

"(B) has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense.

A State may provide limited exceptions to such suspension of registration or return of license plates, on an individual basis, to avoid undue hardship to any individual, including any family member of the convicted individual, and any co-owner of the motor vehicle, who is completely dependent on the motor vehicle for the necessities of life. Such exceptions may not result in unrestricted reinstatement of the registration or unrestricted return of the license plates of the motor vehicle.

"(7) SUPPLEMENTAL GRANTS AS BEING IN ADDITION TO OTHER GRANTS.—A supplemental grant under this section shall be in addition to any basic grant or any other supplemental grant received by such State.

"(g) EFFECT OF PARTICIPATION IN PROGRAMS UNDER SECTIONS 408 AND 410.—No State may receive a grant under this section for any fiscal year for which that State is a recipient of a grant under section 408 or 410 of this title.

["(g)] *"(h)* DEFINITIONS.—As used in this section—

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(2) CONTROLLED SUBSTANCES.—The term 'controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(3) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154(b) of this title.

"(4) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' means any bottle, can, or other receptacle—

"(A) which contains any amount of an alcoholic beverage; and

"(B)(i) which is open or has a broken seal, or

"(ii) the contents of which are partially removed.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, out of the Highway Trust **[Fund,]** *Fund (other than the Mass Transit Account)*, $25,000,000 for the fiscal year ending September 30, **[1995,]** *1992*, and $50,000,000 per fiscal year for the fiscal years ending September 30, **[1996,]** *1993*, September 30, **[1997,]** *1994*, September 30, **[1998,]** *1995*, and September 30, **[1999,]** *1996*, respectively. All provisions of chapter 1 of this title that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that sums authorized by this subsection shall remain available until expended.".

[(b) *Phaseout of Other Programs.*—**(1) Section 408(g) of title 23, United States Code, is amended by inserting "or until October 1, 1994, whichever occurs first" immediately after "until expended".**

[(2) Section 410(h) of title 23, United States Code, is amended by inserting "or until October 1, 1994, whichever occurs first" immediately after "until expended".**]**

[(c)] *(b)* DEADLINES FOR ISSUANCE OF REGULATIONS.—The Secretary of Transportation shall issue and publish in the Federal Register proposed regulations to implement section 405 of title 23, United States Code (as added by subsection (a) of this section), not later than December 1, 1992. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress before March 1, 1994.

[(d)] *(c)* CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United

States Code, is amended by inserting immediately after the item relating to section 404 the following new item:

["405. Impaired driving enforcement programs.".]

"405. Impaired driving enforcement programs.".

The PRESIDING OFFICER. The question is on agreeing to the committee amendments, en bloc.

The committee amendments were agreed to, en bloc.

AMENDMENT NO. 569

(Purpose: To make a perfecting amendment)

Mr. MITCHELL. Mr. President, on behalf of Senator BRYAN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. BRYAN, proposes an amendment numbered 569.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 51, lines 6 through 13, strike "All provisions" and everything that follows; and on page 51, line 14, strike "sums" and insert in lieu thereof "Sums".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 569) was agreed to.

Mr. BRYAN. Mr. President, as chairman of the Consumer Subcommittee, I am pleased that the Senate is considering S. 1012, which is a comprehensive reauthorization of the National Highway Traffic Safety Administration, or NHTSA. I am especially pleased to have as cosponsors of this bill my Commerce Committee colleagues Senators HOLLINGS, DANFORTH, GORTON, KERRY, and MCCAIN, all of whom have distinguished records of hard work and experience in the area of highway safety.

NHTSA's responsibility can be simply stated—to save lives. Obviously, nothing could be of greater importance, or more deserving of our attention and efforts toward reauthorization.

NHTSA's primary responsibility is to improve the safety of our vehicles and our highways. Since the agency was created in 1966, progress has been made. However, about 45,000 people still are killed on our highways each year, and motor vehicle-related injuries are the leading cause of death for children over 1 year old. Motor vehicle crashes cost the U.S. economy $74 billion each year. There can be no doubt that NHTSA, and those of us who consider legislation in this area, still have our work cut out for us.

As everyone who works on highway safety issues is aware, the effort to reauthorize NHTSA has been strenuous, but as yet unsuccessful. The agency has been without an authorization since 1982, despite the fact that the Senate has passed three separate bills during this time. In the last Congress, in March of 1989, I introduced S. 673, which was unanimously approved by the Commerce Committee, and passed by the Senate on a voice vote in August of 1989. Despite the early Senate action, the bill was not enacted into law.

The authorization bill the Senate is considering today has already been adopted by the Senate without objection as an amendment to the highway bill, S. 1012, which recently passed the Senate. Because there has been difficulty in prior years with insuring that the House considers such legislation, I am asking my colleagues to also enact this legislation in its freestanding form to provide the maximum opportunity for its enactment into law.

The issues addressing by this legislation include requirements that NHTSA complete rulemaking to improve the safety of passenger vehicles, including additional head injury protection and rollover protection, airbags antilock brakes. As improved technology becomes available and proven, we want to insure that it is provided for all consumers, and not just those who can afford luxury cars.

In particular, with respect to airbags, this bill will require that airbags be available in all cars and light trucks on a phased-in schedule. There now is general agreement that airbags with manual seatbelts offer occupants superior protection to any other system, yet NHTSA's current rules allow manufacturers to use either automatic seat belts or airbags. While most manufacturers are moving toward airbags on their own, this bill will insure that the installation of airbags will not vary from model to model, but will be available to all.

Additionally, this bill contains authorizations for NHTSA's operations and research, and its programs funded out of the highway trust fund, including programs established by sections 402 and 403 of title 23 United States Code, and impaired driving prevention grants to States. Section 402 provides funds to the States through a formula based on population and highway mileage to assist in highway safety through NHTSA-approved programs. Section 403 funds research in a number of safety areas, including intelligent vehicle-highway systems.

The operations and research funding and the section 403 program adopt the administration's requests for fiscal year 1992. The operations and research funding is increased by the inflation factor recommended by the Congressional Budget Office for fiscal years 1993 and 1994. The section 403 funding is the administration's request for fiscal year 1992, and identical amounts for 4 additional years. Since the administration's request for 1992 is a substantial increase over prior years' funding, no increases have been authorized for later years. The section 402 funding provides the 1991 authorized amount for fiscal year 1992, and increases this amount by the Congressional Budget Office inflation factor for an additional 4 years.

This bill also replaces the two current NHTSA-administered programs of impaired driving prevention grants—sections 408 and 410 of title 23 United States Code—with one new program. The new program is structured in a manner identical to the current programs, but eliminates the overlap between the two, retains the most effective elements of each, and adds some additional measures that have been shown to be effective to prevent impaired driving. Incentive grants are provided to States to encourage such actions as: Prompt suspension of drivers' licenses of impaired drivers; sobriety checkpoints; and mandatory minimum penalties for those convicted of impaired driving.

I believe this bill is comprehensive and will provide important authorization and direction to this vital agency. All parties working on highway safety share the common goal of saving lives and preventing injuries. This bill will advance that process, and go a long way toward achieving these goals. I urge my colleagues to support it.

Mr. HOLLINGS. Mr. President, as chairman of the Commerce Committee, I am pleased to join my my colleagues, including Senator BRYAN, chairman of the Consumer Subcommittee, in supporting this legislation to reauthorize the National Highway Traffic Safety Administration, or NHTSA. It is obvious that this agency has the power, ultimately, to save lives. An agency with this kind of responsibility deserves our fullest support, encouragement, and oversight, and reauthorization legislation is an important part of the congressional support for these safety activities. However, despite the efforts of this committee and the Senate, including Senate passage of reauthorization legislation by voice vote early in the 101st Congress, NHTSA has not been reauthorized since 1982. I certainly will do everything I can to avoid a similar result this Congress.

The issues within NHTSA's responsibility deserve serious and immediate attention because they can provide vital improvements in the safety of the motor vehicles and highways of this country. Over 900 people are killed on our highways each week, so there can be no question that these issues are of the highest priority.

This legislation contains authorizations for a number of important operations, research activities, and State grant programs which NHTSA administers. In my view, among the most important is the incentive grants pro-

gram provided to encourage States to address more effectively the issue of impaired driving. Approximately 50 percent of all traffic fatalities are alcohol-related, so there is enormous potential for saving lives by addressing this issue. This authorization bill reorganizes, streamlines, and improves the two current incentive grant programs into one program that effectively encourages States to take the particular measures believed to be most successful in preventing impaired driving. These include prompt license suspension for impaired drivers, mandatory minimum penalties for those convicted of impaired driving, use of sobriety checkpoints, and improved enforcement of 21 drinking age laws.

The legislation also addresses a broad range of other safety measures, including vehicle manufacturing standards and accident avoidance research. I believe its enactment will continue the progress we have seen since NHTSA's creation in 1966 in reducing highway deaths and injuries. I urge my colleagues to support this important measures.

Mr. DANFORTH. Mr. President, today I join Senators BRYAN, HOLLINGS, GORTON, and others in urging Senate passage of the National Highway Traffic Safety Administration [NHTSA] Reauthorization Act of 1991, S. 1012, designed to reduce highway death and injury. Each year, 45,000 Americans die in highway crashes. In my home State of Missouri, there were 1,096 highway deaths last year—a 4-percent increase over the previous year. According to the Department of Transportation [DOT], highway crashes cost the U.S. economy $75 billion annually.

Congress has given NHTSA primary responsibility for solving highway safety problems. Despite the importance of NHTSA, no reauthorization has been enacted since 1982. In the last 9 years, the Senate has approved, without opposition, three reauthorization bills. The Senate and the House have been unable to reach agreement, however. I hope that, in this Congress, NHTSA legislation will be enacted. This NHTSA bill is a comprehensive highway safety measure. It addresses issues raised in previous NHTSA bills, requires action on promising new safety technologies, and launches a new offensive against impaired driving.

UNFINISHED BUSINESS

Each year 9,000 Americans are killed in side-impact crashes. In 1979, NHTSA opened a rulemaking to improve its side-impact standard, which was inadequate because it only called for a small door beam that did not protect occupants in vehicle-to-vehicle crashes.

Last September, NHTSA announced a modification to the passenger car side-impact protection standard designed to prevent pelvic and torso injuries. NHTSA has not completed a modification to the standard that would prevent head injuries from side impact. These injuries account for about one-half of side-impact deaths. The last four Senate-passed NHTSA bills required improved passenger car side-impact protection to prevent head, torso, and pelvic injuries. This year's NHTSA bill requires the agency to conduct a rulemakng on reducing such head injuries.

Another important issue addressed in earlier bills is multipurpose vehicle [MPV] safety. MPV's, which include minivans, pickups, and four-wheel drive vehicles, currently account for about one-third of the light-duty vehicle market. In 1990, MPV sales increased to $5 million because these relatively inexpensive vehicles are being used as passenger cars. Although MPV's compete directly with passenger cars, NHTSA has exempted them from a number of passenger car safety standards. These exemptions have contributed to the annual toll of more than 8,500 MPV fatalities.

Recently, some of these exemptions have been eliminated. Our bill would complete the process by requiring an MVP rollover prevention standard. Many MPV's, particularly sport-utility vehicles, have high centers of gravity, which can cause them to roll over. For example, NHTSA reports that 64 percent of all single-vehicle accidents of the discontinued Suzuki Samurai involved rollover. The rollover rate for full-sized sedans in single-vehicle crashes is only 8 percent. Our legislation also includes a provision from earlier bills requiring the development of an MPV side-impact protection standard equal to the standard being developed for passenger cars.

Another piece of unfinished business is the need for a rulemaking on methods to reduce head injuries. Each year, between 400,000 and 500,000 Americans suffer head injuries in automobile crashes. The National Head Injury Foundation estimates that over 50,000 of these head injury victims are permanently disabled. An airbag can eliminate head injuries resulting from frontal crashes. Even if all cars are equipped with airbags, however, head injuries will still occur from rollover and side-impact crashes. The rulemaking would draw on NHTSA's research, which indicates that many of these head injuries can be prevented if additional padding is placed in the interior of the car where a crash victim's head is likely to hit.

Our legislation also contains language from last Congress' NHTSA bill requiring NNTSA to conduct a rulemaking on reducing pedestrian injuries resulting from vehicle design. Since 1981, NHTSA has done considerable research on reducing the annual toll of 8,000 pedestrian fatalities. It has identified sources of pedestrian injuries and vehicle design changes to minimize these injuries, but, to data, NHTSA has not conducted a rulemaking.

Our final item of unfinished business involves automobile bumpers. Our bill contains language from previous bills to require NHTSA to raise the bumper collision standard to 5 miles per hour [mph]. In 1982, NHTSA lowered its standards for bumpers from 5 miles per hour to 2.5 miles per hour. This lower standard has been costly to consumers. A recent Insurance Institute for Highway Safety [IIHS] study tested the bumper strength of 34 different cars in a 5 mile per hour crash test. Damages to those vehicles ranged from $618 to $3,300. In the worst cases, the Hyundai Sonata and Subaru Legacy sustained damages totaling $3,300. Before the bumper standard was lowered, the 1981 Ford Escort sustained no damages from the same test.

AIRBAGS

Our bill requires that all passenger cars manufactured on or after September 1, 1995, have both driver—and passenger-side airbags. In addition, MPV's manufactured after September 1, 1997, must have both driver—and passenger-side airbags. These lifesavings devices would save thousands of lives annually if all passenger vehicles had them.

NEW VEHICLE TECHNOLOGIES

Our legislation encourages new technologies to prevent accidents and relieve congestion. One such technology is a smart car/smart highway system. According to NHTSA, driver error contributes to more than 80 percent of all crashes. In advanced smart car/highway systems, automatic braking or steering is used to help overcome a driver's lapse in judgment or his inability to detect risks. These advanced systems will rely on computers and radio signals beamed up from the roadway to keep vehicles spaced safely and moving smoothly.

Less advanced systems might include safety improvements such as enhanced cruise control, which uses a radar technology to help maintain a safe following and leading distance. Another radar-related technology provides a driver with a warning if he attempts to switch lanes when there is a vehicle in his blind spot.

For fiscal year 1992, the Bush administration has requested $62 million for smart car/highway research with $8 million of this money scheduled to go to NHTSA. Our legislation would encourage DOT to develop a strategic plan to maximize the safety benefits of these systems.

Daytime running lights are another promising new technology. There is considerable evidence that equipping vehicles with these lights increases the visibility of vehicles and can reduce accidents. An IIHS study of a fleet of 2,000 cars equipped with such lights found that they had 7-percent fewer accidents than unlighted cars in the same fleet. In addition, a Finnish study

showed that multivehicle accidents dropped 27 percent once daytime running lights were required. Moreover, Canada now requires that all new vehicles sold in that country have automatic daytime running lights. Our legislation requires a rulemaking on whether manufacturers should be permitted to equip vehicles with daytime running lights, notwithstanding any state law that affects the use of such lights. It also requires NHTSA to study whether these lights should be standard equipment.

Antilock brake systems are another promising safety technology. These brakes greatly increase the ability of a vehicle to stop in a short distance and in a straight line. They are especially effective in wet, snowy, or icy conditions. Currently, antilock brakes are available on some pickup trucks and luxury models. Our bill requires NHTSA to conduct a rulemaking on whether antilock brakes should be mandated for passenger cars and MPV's.

Our bill also requires NHTSA to consider a new technology known as heads-up display systems. These displays can project speed, fuel, and other instrument readings onto the lower part of the windshield, enabling the driver to check readings without looking down, enhancing safety.

THE IMPAIRED DRIVING PREVENTION ACT OF 1991

Our bill also addresses the leading cause of highway death—drunk and drugged driving, an issue on which Congress has played a leadership role during the last decade.

In 1982, according to NHTSA, 25,170 Americans were killed in alcohol-related crashes. Since that year, Congress has created State grant programs to encourage enactment and enforcement of tough drunk driving laws and the National Minimum Drinking Age Act. These efforts have made a small but measurable difference. NHTSA reports that there were 22,415 drunk driving fatalities in 1989. The percentage of fatal crashes that are alcohol-related has also dropped from 57.2 percent to 49.2 percent.

Our bill creates an incentive grant program that will encourage States to take some promising impaired driving prevention initiatives. One of these initiatives involves increased use of sobriety checkpoints. These checkpoints have been endorsed as an effective tool to fight impaired driving by DOT Secretary Samuel K. Skinner and National Transportation Safety Board Chairman James Kolstad. In June 1989, the Supreme Court upheld the constitutionality of such checkpoints by a vote of 6 to 3. In a concurring opinion, Justice Blackmun called impaired driving a "tragic aspect of American life" and cited an earlier decision in which he "noted that the 'slaughter on our highways exceeds the death toll of all our wars.'"

Another requirement for receiving a grant under the new program involves efforts to videotape impaired drivers. Some local law enforcement officials are using video cameras to record the image of a weaving car and its incoherent driver. Aetna Life & Casualty and MADD have formed a partnership to purchase a limited number of video cameras for the police departments in cities such as Columbus, OH, and Kansas City, MO. Michael Creamer, a deputy sheriff in Columbus, explained the importance of the camera, "We'll show the judge, the jury and the courtroom how they really looked driving on the wrong side, falling down by the car, unable to walk or recite the alphabet." Creamer said all 17 drunk drivers that his department videotaped have pled guilty. Last May, the Supreme Court upheld the use of videotaping drunk drivers by an 8-to-1 margin.

Another requirement under the new program involves BAC levels. A State would have to establish a per se BAC standard of no more than 0.10 percent for the first 3 years. To qualify for the grant after that time, the State would have to have a 0.08 percent BAC standard. Virtually every major developed country has a standard lower than 0.10 percent BAC: Canada 0.08 percent BAC; Australia 0.05 percent BAC; Finland 0.05 percent BAC; Norway 0.05 percent BAC; Sweden. 0.02 percent BAC; France 0.08 percent BAC; Spain 0.08 percent BAC; Japan 0.08 percent BAC; and U.K. 0.08 percent BAC. States with 0.08 percent BAC per se include Utah, Oregon, California, and Maine. The scientific community believes that 0.08 percent BAC is well above the level of driving impairment. To get above 0.08 percent, a 170-pound male must drink four drinks in 1 hour on an empty stomach. He will metabolize 0.015 percent, or about one drink an hour, so he must continue to drink to stay at 0.08 percent.

Thirty-seven studies show impaired depth perception, vision, and judgment at levels at or below 0.04 percent BAC.

Two additional features of this new program merit discussion: First, the program endeavors to give States some flexibility by waiving one of the five basic criteria if they can show reduced alcohol-related fatalities over a 5-year period; and second, the program provides a supplemental grant to States that create an effective drugged driving prevention program. A 1988 DOT review of drugged driving indicates between 10 percent and 22 percent of crash-involved drivers tested positive for drugs.

CONCLUSION

This legislation will reduce impaired driving, make vehicles more crashworthy, and help drivers avoid accidents. I urge my colleagues to support it.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as amended, as follows:

S. 591

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Highway Traffic Safety Administration Authorization Act of 1991".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons;

(2) "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry 10 persons or fewer, which is constructed either on a truck chassis or with special features for occasional off-road operation;

(3) "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer), designed for carrying 10 persons or fewer;

(4) "Secretary" means the Secretary of Transportation; and

(5) "truck" means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

GENERAL AUTHORIZATIONS

SEC. 101. (a) TRAFFIC AND MOTOR VEHICLE SAFETY PROGRAM.—For the National Highway Traffic Safety Administration to carry out the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), there are authorized to be appropriated $68,722,000 for fiscal year 1992, $71,333,436 for fiscal year 1993, and $74,044,106 for fiscal year 1994.

(b) MOTOR VEHICLE INFORMATION AND COST SAVINGS PROGRAMS.—For the National Highway Traffic Safety Administration to carry out the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), there are authorized to be appropriated $6,485,000 for fiscal year 1992, $6,731,430 for fiscal year 1993, and $6,987,224 for fiscal year 1994.

(c) NATIONAL DRIVER REGISTER ACT.—Section 211(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by striking "and" the second time it appears; and

(2) by inserting immediately before the period at the end the following: ", not to exceed $6,131,000 for fiscal year 1992, not to exceed $6,363,978 for fiscal year 1993, and not to exceed $6,605,809 for fiscal year 1994".

(d) NHTSA HIGHWAY SAFETY PROGRAMS.—For the National Highway Traffic Safety Administration to carry out section 402 of title 23, United States Code, there are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $126,000,000 for fiscal year 1992, $130,788,000 for fiscal year 1993, $135,757,944 for fiscal year 1994, $140,916,745 for fiscal year 1995, and $146,271,573 for fiscal year 1996.

(e) NHTSA HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For the National Highway Traffic Safety Administration to carry out section 403 of title 23, United States Code, there are authorized to be appropriated, out of the Highway Trust Fund (other than the

Mass Transit Account), $45,869,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996.

INTELLIGENT VEHICLE-HIGHWAY SYSTEMS

SEC. 102. The Secretary shall expend the sums authorized under section 101(e) as the Secretary deems necessary for the purpose of conducting research on intelligent vehicle-highway systems. The Secretary shall develop a strategic plan with specific milestones, goals, and objectives for that research. The research should place particular emphasis on aspects of those systems that will increase safety, and should identify any aspects of the systems that might degrade safety.

TITLE II—REQUIREMENTS FOR VEHICLES

SIDE IMPACT PROTECTION

SEC. 201. (a) AMENDMENT OF FMVSS STANDARD 214.—The Secretary shall, not later than 12 months after the date of enactment of this Act, issue a final rule amending Federal Motor Vehicle Safety Standard 214, published as section 571.214 of title 49, Code of Federal Regulations. The rule shall establish performance criteria for improved head injury protection for occupants of passenger cars in side impact accidents.

(b) EXTENSION TO MULTIPURPOSE PASSENGER VEHICLES.—Not later than 18 months after the date of enactment of this Act, the Secretary shall issue a final rule to extend the applicability of such Standard 214 to multipurpose passenger vehicles, taking into account the performance criteria established by the final rule issued in accordance with subsection (a).

AUTOMOBILE CRASHWORTHINESS DATA

SEC. 202. (a) STUDY AND INVESTIGATION.—(1) The Secretary shall, within 30 days after the date of enactment of this Act, enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation regarding means of establishing a method for calculating a uniform numerical rating, or series of ratings, which will enable consumers to compare meaningfully the crashworthiness of different passenger car and multipurpose passenger vehicle makes and models.

(2) Such study shall include examination of current and proposed crashworthiness tests and testing procedures and shall be directed to determining whether additional objective, accurate, and relevant information regarding the comparative crashworthiness of different passenger car and multipurpose passenger vehicle makes and models reasonably can be provided to consumers by means of a crashworthiness rating rule. Such study shall include examination of at least the following proposed elements of a crashworthiness rating rule:

(A) information on the degree to which different passenger car and multipurpose passenger vehicle makes and models will protect occupants across the range of motor vehicle crash types when in use on public roads;

(B) a repeatable and objective test which is capable of identifying meaningful differences in the degree of crash protection provided occupants by the vehicles tested, with respect to such aspects of crashworthiness as occupant crash protection with and without use of manual seatbelts, fuel system integrity, and other relevant aspects;

(C) ratings which are accurate, simple in form, readily understandable, and of benefit to consumers in making informed decisions in the purchase of automobiles;

(D) dissemination of comparative crashworthiness ratings to consumers either at the time of introduction of a new passenger car or multipurpose passenger vehicle make or model or very soon after such time of introduction; and

(E) the development and dissemination of crashworthiness data at a cost which is reasonably balanced with the benefits of such data to consumers in making informed purchase decisions.

(3) Any such arrangement shall require the National Academy of Sciences to report to the Secretary and the Congress not later than 19 months after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall, to the extent permitted by law, furnish to the Academy upon its request any information which the Academy considers necessary to conduct the investigation and study required by this subsection.

(4) Within 60 days after transmittal of the report of the National Academy of Sciences to the Secretary and the Congress under paragraph (3), the Secretary shall initiate a period (not longer than 90 days) for public comment on implementation of the recommendations of the National Academy of Sciences with respect to a rule promulgated under title II of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passengers cars and multipurpose passenger vehicles.

(5) Not later than 180 days after the close of the public comment period provided for in paragraph (4) of this subsection, the Secretary shall determine, on the basis of the report of the National Academy of Sciences and the public comments on such report, whether an objectively based system can be established by means of which accurate and relevant information can be derived that reasonably predicts the degree to which different makes and models of passenger cars and multipurpose passenger vehicles provide protection to occupants against the risk of personal injury or death as a result of motor vehicle accidents. The Secretary shall promptly publish the basis of such determination, and shall transmit such determination to the Congress.

(b) RULE ON COMPARATIVE CRASHWORTHINESS RATING SYSTEM.—(1) If the Secretary determines that the system described in subsection (a)(5) can be established, the Secretary shall, subject to the exception provided in paragraph (2), not later than 3 years after the date of enactment of this Act, promulgate a final rule under section 201 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1941) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger cars and multipurpose passenger vehicles. The rule promulgated under such section 201 shall be practicable and shall provide to the public relevant objective information in a simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger cars and multipurpose passenger vehicles so as to contribute meaningfully to informed purchase decisions.

(2) The Secretary shall not promulgate such rule unless—

(A) a period of 60 calendar days has passed after the Secretary has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a summary of the comments received during the period for public comment specified in subsection (a)(4); or

(B) each such committee before the expiration of such 60-day period has transmitted to the Secretary written notice to the effect that such committee has no objection to the promulgation of such rule.

(c) RULE ON PROVIDING CRASHWORTHINESS INFORMATION TO PURCHASERS.—If the Secretary promulgates a rule under subsection (b), not later than 6 months after such promulgation, the Secretary shall by rule establish procedures requiring passenger cars and multipurpose passenger vehicle dealers to make available to prospective passenger car and multipurpose passenger vehicle purchasers information developed by the Secretary and provided to the dealer which contains data comparing the crashworthiness of passenger cars and multipurpose passenger vehicles.

STANDARDS COMPLIANCE

SEC. 203. Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end the following new subsection:

"(j)(1) The Secretary shall establish a schedule for use in ensuring compliance with each Federal motor vehicle safety standard established under this Act which the Secretary determines is capable of being tested. Such schedule shall ensure that each such standard is the subject of testing and evaluation on a regular, rotating basis.

"(2) The Secretary shall, not later than 6 months after the date of enactment of this subsection, conduct a review of the method for the collection of data regarding accidents related to Federal motor vehicle safety standards established under this Act. The Secretary shall consider the desirability of collecting data in addition to that information collected as of the date of enactment of this subsection, and shall estimate the costs involved in the collection of such additional data, as well as the benefits to safety likely to be derived from such collection. If the Secretary determines that such benefits outweigh the costs of such collection, the Secretary shall collect such additional data and utilize it in determining which motor vehicles should be the subject of testing for compliance with Federal motor vehicle safety standards established under this Act.".

INVESTIGATION AND PENALTY PROCEDURES

SEC. 204. (a) INVESTIGATION PROCEDURES.—Section 112(a)(1) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1401(a)(1)) is amended by adding at the end the following: "The Secretary shall establish written guidelines and procedures for conducting any inspection or investigation regarding noncompliance with this title or any rules, regulations, or orders issued under this title. Such guidelines and procedures shall indicate timetables for processing of such inspections and investigations to ensure that such processing occurs in an expeditious and thorough manner. In addition, the Secretary shall develop criteria and procedures for use in determining when the results of such an investigation should be considered by the Secretary to be the subject of a civil penalty under section 109 of this title. Nothing in this paragraph shall be construed to limit the ability of the Secretary to exceed any time limitation specified in such timetables where the Secretary determines that additional time is necessary for the processing of any such inspection or investigation.".

(b) CIVIL PENALTY PROCEDURES.—Section 109(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1398(a)) is amended by adding at the end the following: "The Secretary shall establish procedures for determining the manner in which, and the time within which, a determination should be made regarding whether a civil penalty should be imposed under this section. Nothing in this subsection shall be construed to limit the ability of the Secretary to exceed any time limitation specified for making any such determination where the Secretary determines that additional time is necessary for making a determination regarding whether a civil penalty should be imposed under this section.".

MULTIPURPOSE PASSENGER VEHICLE SAFETY

SEC. 205. (a) FINDINGS.—The Congress finds that—

(1) multipurpose passenger vehicles have become increasingly popular during this decade and are being used increasingly for the transportation of passengers, not property; and

(2) the safety passengers in multipurpose passenger vehicles has been compromised by the failure to apply to them the Federal motor vehicle safety standards applicable to passenger cars.

(b) RULEMAKING PROCEEDING.—(1) In accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms, the Secretary shall, not later than 12 months after the date of enactment of this Act, complete a rulemaking proceeding to review the system of classification of vehicles with a gross vehicle weight under 10,000 pounds to determine if such vehicles should be reclassified.

(2) Any reclassification pursuant to paragraph (1) shall, to the maximum extent practicable, classify as a passenger car every motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor car or other motor vehicle principally designed for the transport of persons under heading 8703 of the Harmonized Tariff Schedule of the United States. Nothing in this section shall prevent the Secretary from classifying as a passenger car any motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor vehicle for the transport of goods under heading 8704 of such Harmonized Tariff Schedule.

ROLLOVER PROTECTION

SEC. 206. The Secretary shall, within 12 months after the date of enactment of this Act, complete a rulemaking proceeding to consider establishment of a Federal Motor Vehicle Safety Standard to protect against unreasonable risk of rollover of passenger cars and multipurpose passenger vehicles.

REAR SEATBELTS

SEC. 207. The Secretary shall expend such portion of the funds authorized to be appropriated under the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), for each of the fiscal years 1992 and 1993, as the Secretary deems necessary for the purpose of disseminating information to consumers regarding the manner in which passenger cars may be retrofitted with lap and shoulder rear seatbelts.

IMPACT RESISTANCE CAPABILITY OF BUMPERS

SEC. 208. (a) DISCLOSURE OF BUMPER IMPACT CAPABILITY.—The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by inserting immediately after section 102 the following new subsection:

"DISCLOSURE OF BUMPER IMPACT CAPABILITY

"SEC. 102A. (a) The Secretary shall promulgate, in accordance with the provisions of this section, a regulation establishing passenger motor vehicle bumper system labeling requirements. Such regulation shall apply to passenger motor vehicles manufactured for model years beginning more than 180 days after the date such regulation is promulgated, as provided in subsection (c)(2) of this section.

"(b)(1) The regulation required to be promulgated in subsection (a) of this section shall provide that, before any passenger motor vehicle is offered for sale, the manufacturer shall affix a label to such vehicle, in a format prescribed in such regulation, disclosing an impact speed at which the manufacturer represents that the vehicle meets the applicable damage criteria.

"(2) For purposes of this subsection, the term 'applicable damage criteria' means the damage criteria applicable under section 581.5(c) of title 49, Code of Federal Regulations (as in effect on the date of enactment of this section).

"(c)(1) Not later than 90 days after the date of enactment of this section, the Secretary shall publish in the Federal Register a proposed initial regulation under this section.

"(2) Not later than 180 days after such date of enactment, the Secretary shall promulgate a final initial regulation under this section.

"(d) The Secretary may allow a manufacturer to comply with the labeling requirements of subsection (b) of this section by permitting such manufacturer to make the bumper system impact speed disclosure required in subsection (b) of this section on the label required by section 506 of this Act or section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(e) The regulation promulgated under subsection (a) of this section shall provide that the information disclosed under this section be provided to the Secretary at the beginning of the model year for the model involved. As soon as practicable after receiving such information, the Secretary shall furnish and distribute to the public such information in a simple and readily understandable form in order to facilitate comparison among the various types of passenger vehicles. The Secretary may by rule require automobile dealers to distribute to prospective purchasers any information compiled pursuant to this subsection.

"(f) For purposes of this section, the term 'passenger motor vehicle' means any motor vehicle to which the standard under part 581 of title 49, Code of Federal Regulations, is applicable.".

(b) AMENDMENT OF BUMPER STANDARD.—(1) Not later than 1 year after the date of enactment of this Act, the Secretary shall amend the bumper standard published as part 581 of title 49, Code of Federal Regulations, to ensure that such standard is identical to the bumper standard under such part 581 which was in effect on January 1, 1982. The amended standard shall apply to all passenger cars manufactured after September 1, 1992.

(2) Nothing in this subsection shall be construed to prohibit the Secretary from requiring under such part 581 that passenger car bumpers be capable of resisting impact speeds higher than those specified in the bumper standard in effect under such part 581 on January 1, 1982.

CHILD BOOSTER SEATS

SEC. 209. (a) IN GENERAL.—In accordance with applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall conduct a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard 213, published as section 571.213 of title 49, Code of Federal Regulations, to increase the safety of child booster seats used in passenger cars. The proceeding shall be initiated not later than 30 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

(b) DEFINITION.—As used in this section, the term "child booster seat" has the meaning given the term "booster seat" in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

AIRBAG REQUIREMENTS

SEC. 210. (a) AIRBAGS FOR CARS ACQUIRED FOR FEDERAL USE.—The Secretary, in cooperation with the Administrator of General Services and the heads of other appropriate Federal agencies, shall establish a program requiring that all passenger cars acquired after September 30, 1991, for use by the Federal Government be equipped, to the maximum extent practicable, with driver-side airbags and that all passenger cars acquired after September 30, 1993, for use by the Federal Government be equipped, to the maximum extent practicable, with airbags for both the driver and front seat outboard seating positions.

(b) AIRBAGS FOR CERTAIN OTHER VEHICLES.—(1) Passenger cars, and those trucks, buses, and multipurpose passenger vehicles that have a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less, shall, in accordance with the following schedule, be equipped with airbags complying with the occupant crash protection requirements under S4.1.2.1 of Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations:

(A) All passenger cars manufactured on and after September 1, 1995, shall be so equipped for both the driver and right front seat outboard seating positions.

(B) All such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1996, and before September 1, 1997, shall, at a minimum, be so equipped for the driver side.

(C) All such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1997, shall be so equipped for both the driver and right front seat outboard seating positions.

(2) For purposes of sections 108 through 112, 114, 115, 116, 118, 120, 121, and 151 through 158 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1397 through 1401, 1403, 1404, 1405, 1406, 1408, 1409, and 1411 through 1418), the requirements of paragraph (1) of this subsection are deemed to be a Federal motor vehicle safety standard prescribed pursuant to section 103 of that Act (15 U.S.C. 1392).

STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

SEC. 211. Part A of title III of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1961 et seq.) is amended by adding at the end the following new section:

"STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

"SEC. 304. (a) The Congress finds that—

"(1) State motor vehicle safety inspection programs, when properly administered, can reduce the rate of highway traffic accidents by a significant percentage;

"(2) the 1990 amendments to the Clean Air Act will subject approximately 60 percent of the vehicles in the United States to emissions inspection;

"(3) as States plan to implement the requirement for emissions inspections, there is considerable potential for simultaneously and economically implementing effective motor vehicle safety inspection programs;

"(4) the Secretary, as part of the effort to reduce highway accidents, should make every effort to ensure that the potential for effective State motor vehicle safety inspection programs is realized; and

"(5) the Secretary and the Administrator of the Environmental Protection Agency shall coordinate their efforts so as to ensure maximum coordination of motor vehicle safety inspections and required emissions inspections.

"(b) The Secretary shall, within six months after the date of enactment of this section and every year thereafter, submit a report to Congress detailing the efforts of the Secretary to ensure that State motor vehicle safety inspection programs are implemented in the most effective manner possible. The report shall—

"(1) specify Federal manpower allocations for support of State motor vehicle safety inspection efforts;

"(2) specify allocations and expenditures of Federal funds on such efforts;

"(3) describe the extent and effect of the coordination by the Secretary and the Administrator of the Environmental Protection Agency of their respective efforts regarding motor vehicle safety inspection and required emissions inspections, and of the coordination of State motor vehicle safety inspections and emissions inspections;

"(4) list the States that do not have a periodic safety inspection program for motor vehicles that meets the requirements of Highway Safety Program Standard Number 1 and part 570 of title 49, Code of Federal Regulations; and

"(5) include any data, furnished by the States that do operate such safety inspection programs, that concerns the relative effectiveness of their particular programs.".

RECALL OF CERTAIN MOTOR VEHICLES

SEC. 212. (a) NOTIFICATION OF DEFECT OR FAILURE TO COMPLY.—Section 153 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413) is amended by adding at the end the following new subsections:

"(d) If the Secretary determines that a notification sent by a manufacturer pursuant to subsection (c) of this section has not resulted in an adequate number of vehicles or items of equipment being returned for remedy, the Secretary may direct the manufacturer to send a second notification in such manner as the Secretary may by regulation prescribe.

"(e)(1) Any lessor who receives a notification required by section 151 or 152 pertaining to any leased motor vehicle shall send a copy of such notice to the lessee in such manner as the Secretary may by regulation prescribe.

"(2) For purposes of this subsection, the term 'leased motor vehicle' means any motor vehicle which is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the 12 months preceding the date of the notification.".

(b) LIMITATION ON SALE OR LEASE OF CERTAIN VEHICLES.—Section 154 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1414) is amended by adding at the end the following:

"(d) If notification is required under section 151 or by an order under section 152(b) and has been furnished by the manufacturer to a dealer of motor vehicles with respect to any new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification which fails to comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, such dealer may sell or lease such motor vehicle or item of replacement equipment only if—

"(1) the defect or failure to comply has been remedied in accordance with this section before delivery under such sale or lease; or

"(2) in the case of notification required by an order under section 152(b), enforcement of the order has been restrained in an action to which section 155(a) applies or such order has been set aside in such an action.

Nothing in this subsection shall be construed to prohibit any dealer from offering for sale or lease such vehicle or item of equipment.".

DARKENED WINDOWS

SEC. 213. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding on the use of darkened windshields and window glass in passenger cars and multipurpose passenger vehicles, including but not limited to the issues of—

(1) the harmonization of light transmittance requirements for multipurpose passenger vehicles with light transmittance requirements for passenger cars;

(2) performance requirements for light transmittance; and

(3) appropriate levels of light transmittance.

The proceeding shall consider the effects of such issues in the context of the safe operation of passenger cars and multipurpose passenger vehicles, as well as on the hazards to the safety of law enforcement personnel as a result of such use of darkened windshields and window glass.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 6 months after the date of enactment of this Act and completed not later than 18 months after the date of enactment.

GRANT PROGRAM CONCERNING USE OF SEATBELTS AND CHILD RESTRAINT SYSTEMS

SEC. 214. (a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 411. Seatbelt and child restraint programs

"(a) Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement seatbelt and child restraint programs which include measures described in this section to foster the increased use of seatbelts and the correct use of child restraint systems. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for seatbelt and child restraint programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this section.

"(c) No State may receive grants under this section in more than 3 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the seatbelt and child restraint program adopted by the State pursuant to subsection (a) of this section;

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) Subject to subsection (c), the amount of a grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) of this section shall equal 20 percent of the amount apportioned to such State for fiscal year 1991 under section 402.

"(e) A State is eligible for a grant under this section if such State—

"(1) has in force and effect a law requiring all such occupants of a passenger car to use seatbelts;

"(2) has achieved—

"(A) in the year immediately preceding a first-year grant, the lesser of either (i) 70 percent seatbelt use by all front seat occupants of passenger cars in the State or (ii) a rate of seatbelt use by all such occupants that is 20 percentage points higher than the rate achieved in 1990;

"(B) in the year immediately preceding a second-year grant, the lesser of either (i) 80 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 35 percentage points higher than the rate achieved in 1990; and

"(C) in the year immediately preceding a third-year grant, the lesser of either (i) 90 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 45 percentage points higher than the rate achieved in 1990; and

"(3) has in force and effect an effective program, as determined by the Secretary, for encouraging the correct use of child restraint systems.

"(f) As used in this section, the term 'child restraint system' has the meaning given such term in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(g) There are authorized to be appropriated, from any funds in the Treasury not otherwise appropriated, to carry out this section, $10,000,000 for the fiscal year 1991, and $20,000,000 for each of the fiscal years 1992 and 1993.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

"411. Seatbelt and child restraint programs.".

METHODS OF REDUCING HEAD INJURIES

SEC. 215. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider methods of reducing head injuries in passenger cars and multipurpose passenger vehicles from contact with vehicle interior components, including those in the head impact area as defined in section 571.3(b) of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act, and to revise the Federal motor vehicle safety standards as appropriate.

(b) DEADLINES.—The proceeding required under subsection (a) shall be initiated not less than 60 days after the date of enactment

of this Act and completed not later than 2 years after such date of enactment.

PEDESTRIAN SAFETY

SEC. 216. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider the establishment of a standard to minimize pedestrian death and injury, including injury to the head, thorax, and legs, attributable to vehicle components.

(b) DEADLINES.—The proceeding required under subsection (a) shall be initiated not later than 6 months after the date of enactment of this Act and completed not later than 2 years after such date of enactment.

DAYTIME RUNNING LIGHTS

SEC. 217. (a) RULEMAKING PROCEEDING.—Not later than 12 months after the date of enactment of this Act, the Secretary shall complete a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard 108, published as section 571.108 of title 49, Code of Federal Regulations, to authorize passenger cars and multipurpose passenger vehicles to be equipped with daytime running lights, notwithstanding any State law or regulation that affects the use of such lights.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the safety implications of the use of such lights in the United States, including the recommendations of the Secretary concerning whether to require passenger cars and multipurpose passenger vehicles to be equipped with such lights.

ANTILOCK BRAKE SYSTEMS

SEC. 218. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding concerning whether to adopt a Federal motor vehicle safety standard requiring antilock brake systems for all passenger cars and multipurpose passenger vehicles manufactured after September 1, 1996.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

HEADS-UP DISPLAYS

SEC. 219. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider the establishment of a standard requiring that passenger cars and multipurpose passenger vehicles shall be equipped with heads-up displays capable of projecting speed, fuel, and other instrument readings on the lower part of the windshield, enabling the driver to check such readings without looking down.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

SAFETY BELT DESIGN

SEC. 220. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider whether to amend any existing standard applicable to seatbelts, as published under part 571 of title 49, Code of Federal Regulations, for modification of seatbelt design in order to take into account the needs of children and short adults.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

CRITERIA FOR STANDARDS

SEC. 221. Any standard established under a proceeding required by section 206, 213, 215, 216, 217, 218, 219, or 220 shall be in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of that Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

TITLE III—IMPAIRED DRIVING ENFORCEMENT

SHORT TITLE

SEC. 301. This title may be cited as the "Impaired Driving Prevention Act of 1991".

AMENDMENT TO TITLE 23, UNITED STATES CODE

SEC. 302. (a) ESTABLISHMENT OF GRANT PROGRAM.—Chapter 4 of title 23, United States Code, is amended by inserting immediately after section 404 the following new section:

"§ 405. Impaired driving enforcement programs

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement impaired driving enforcement programs which include measures, described in this section, to improve the effectiveness of the enforcement of laws to prevent impaired driving. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for impaired driving enforcement programs at or above the average level of such expenditures in its 2 fiscal years preceding the fiscal year in which this section is enacted.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 5 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the impaired driving enforcement program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF BASIC GRANTS.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) shall equal 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title.

"(e) ELIGIBILITY FOR BASIC GRANTS.—

"(1) GENERAL.—For purposes of this section, a State is eligible for a basic grant if such State—

"(A) provides for a program (funded at the level required under paragraph (2)) to conduct highway checkpoints for the detection and deterrence of persons who operate motor vehicles while under the influence of alcohol or a controlled substance, including the training, manpower, and equipment associated with the conduct of such checkpoints;

"(B) provides for a program (funded at the level required under paragraph (2)) to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol or a controlled substance and in effectively prosecuting those persons, and to train personnel in the use of that equipment;

"(C) establishes an expedited driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(i) when a law enforcement officer has probable cause under State law to believe a person has committed an alcohol-related traffic offense and such person is determined, on the basis of a chemical test, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer shall serve such person with a written notice of suspension or revocation of the driver's license of such person and take possession of such driver's license;

"(ii) the notice of suspension or revocation referred to in clause (i) shall provide information on the administrative procedures under which the State may suspend or revoke in accordance with the objectives of this section a driver's license of a person for operating a motor vehicle while under the influence of alcohol and shall specify any rights of the operator under such procedures;

"(iii) the State shall provide, in the administrative procedures referred to in clause (ii), for due process of law, including the right to an administrative review of a driver's license suspension or revocation within the time period specified in clause (vi);

"(iv) after serving notice and taking possession of a driver's license in accordance with clause (i), the law enforcement officer immediately shall report to the State entity responsible for administering drivers' licenses all information relevant to the action taken in accordance with this clause;

"(v) in the case of a person who, in any 5-year period beginning after the date of enactment of this section, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by the law enforcement officer, the State entity responsible for administering drivers' licenses, upon receipt of the report of the law enforcement officer—

"(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(vi) the suspension and revocation referred to under clause (iv) shall take effect not later than 30 days after the day on which the person first received notice of the suspension or revocation in accordance with clause (ii);

"(D) requires that any person with a blood alcohol concentration equal to or greater than the following percentage when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol:

"(i) 0.10 percent for each of the first 3 fiscal years in which a basic grant is received; and

"(ii) 0.08 percent for each of the last 2 fiscal years in which a basic grant is received;

"(E) enacts a statute which provides that—

"(i) any person convicted of a first violation of driving under the influence of alcohol shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of alcohol within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of alcohol within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of alcohol shall receive a mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license; and

"(F) provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines and surcharges collected from persons by reason of their operation of a motor vehicle while under the influence of alcohol are returned, or an equivalent amount of non-Federal funds are provided, to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

"(2) REQUIRED FUNDING LEVELS.—The funding level for the program described in paragraph (1)(A), and for the program described in paragraph (1)(B), shall be an amount equal to or greater than—

"(A) the average level of expenditures by the State for such program in its 2 fiscal years preceding the date of enactment of this section, plus

"(B) 2.4 percent of the amount apportioned to the State for fiscal year 1989 under section 402 of this title.

"(3) WAIVER FOR REDUCED FATALITIES.—If the rate of alcohol-related fatalities (as defined in the Fatal Accident Reporting System of the National Highway Traffic Safety Administration) in a State decreases by an average of 3 percent per calendar year for the 5 consecutive calendar years prior to the fiscal year for which the State would receive a basic grant under this section, the Secretary may waive for that State the basic grant eligibility requirements of one subparagraph among subparagraphs (A) through (F) of paragraph (1).

"(f) SUPPLEMENTAL GRANT PROGRAM.—

"(1) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c) of this section, not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in an accident resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

"(2) PROGRAM FOR PREVENTING DRIVERS UNDER AGE 21 FROM OBTAINING ALCOHOLIC BEVERAGES.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for and increases its enforcement of an effective system for preventing persons under age 21 from obtaining alcoholic beverages, which may include the issuance of drivers' licenses to persons under age 21 that are easily distinguishable in appearance from drivers' licenses issued to persons 21 years of age and older.

"(3) DRUGGED DRIVING PREVENTION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—

"(A) provides for laws concerning drugged driving under which—

"(i) a person shall not drive or be in actual physical control of a motor vehicle while under the influence of alcohol, a controlled substance or combination of controlled substances, or any combination of alcohol and controlled substances;

"(ii) any person who operates a motor vehicle upon the highways of the State shall be deemed to have given consent to a test or tests of his or her blood, breath, or urine for the purpose of determining the blood alcohol concentration or the presence of controlled substances in his or her body;

"(iii) the driver's license of a person shall be suspended promptly, for a period of not less than 90 days in the case of a first offender and not less than 1 year in the case of any repeat offender, when a law enforcement officer has probable cause under State law to believe such person has committed a traffic offense relating to controlled substances use, and such person (I) is determined, on the basis of 1 or more chemical tests, to have been under the influence of controlled substances while operating a motor vehicle, or (II) refuses to submit to such a test as proposed by the officer;

"(B) enacts a statute which provides that—

"(i) any person convicted of a first violation of driving under the influence of controlled substances or alcohol, or both, shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of controlled substances or alcohol, or both, shall receive a mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license;

"(C) provides for an effective system, as determined by the Secretary, for—

"(i) the detection of driving under the influence of controlled substances;

"(ii) the administration of a chemical test or tests to any driver who a law enforcement officer has probable cause to believe has committed a traffic offense relating to controlled substances use; and

"(iii) in instances where such probable cause exists, the prosecution of (I) those who are determined, on the basis of 1 or more chemical tests, to have been operating a motor vehicle while under the influence of controlled substances and (II) those who refuse to submit to such a test as proposed by a law enforcement officer; and

"(D) has in effect two of the following programs:

"(i) an effective educational program, as determined by the Secretary, for the prevention of driving under the influence of controlled substances;

"(ii) an effective program, as determined by the Secretary, for training law enforcement officers to detect driving under the influence of controlled substances; and

"(iii) an effective program, as determined by the Secretary, for the rehabilitation and treatment of those convicted of driving under the influence of controlled substances.

"(4) BLOOD ALCOHOL CONCENTRATION STANDARD.—For purposes of this section, a State is eligible for a supplemental grant (only for any of the first 3 fiscal years in which a basic grant is received) in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that any person with a blood alcohol concentration of 0.08 or greater when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol.

"(5) UNLAWFUL OPEN CONTAINER AND CONSUMPTION OF ALCOHOL PROGRAMS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

"(A) as allowed in the passenger area, by persons (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

"(B) as otherwise specifically allowed by such State, with the approval of the Sec-

retary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger area.

"(6) SUSPENSION OF REGISTRATION AND RETURN OF LICENSE PLATE PROGRAM.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for the suspension of the registration of, and the return to such State of the license plates for, any motor vehicle owned by an individual who—

"(A) has been convicted on more than 1 occasion of an alcohol-related traffic offense within any 5-year period after the date of enactment of this section; or

"(B) has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense.

A State may provide limited exceptions to such suspension of registration or return of license plates, on an individual basis, to avoid undue hardship to any individual, including any family member of the convicted individual, and any co-owner of the motor vehicle, who is completely dependent on the motor vehicle for the necessities of life. Such exceptions may not result in unrestricted reinstatement of the registration or unrestricted return of the license plates of the motor vehicle.

"(7) SUPPLEMENTAL GRANTS AS BEING IN ADDITION TO OTHER GRANTS.—A supplemental grant under this section shall be in addition to any basic grant or any other supplemental grant received by such State.

"(g) EFFECT OF PARTICIPATION IN PROGRAMS UNDER SECTIONS 408 AND 410.—No State may receive a grant under this section for any fiscal year for which that State is a recipient of a grant under section 408 or 410 of this title.

"(h) DEFINITIONS.—As used in this section—

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(2) CONTROLLED SUBSTANCES.—The term 'controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(3) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154(b) of this title.

"(4) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' means any bottle, can, or other receptacle—

"(A) which contains any amount of an alcoholic beverage; and

"(B)(i) which is open or has a broken seal, or

"(ii) the contents of which are partially removed.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $25,000,000 for the fiscal year ending September 30, 1992, and $50,000,000 per fiscal year for the fiscal years ending September 30, 1993, September 30, 1994, September 30, 1995, and September 30, 1996, respectively. Sums authorized by this subsection shall remain available until expended.".

(b) DEADLINES FOR ISSUANCE OF REGULATIONS.—The Secretary of Transportation shall issue and publish in the Federal Register proposed regulations to implement section 405 of title 23, United States Code (as added by subsection (a) of this section), not later than December 1, 1992. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress before March 1, 1994.

(c) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by inserting immediately after the item relating to section 404 the following new item:

"405. Impaired driving enforcement programs.".

Passed the Senate July 9 (legislative day, July 8), 1991.

Attest:

Secretary.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill as amended was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HIGHWAY FATALITY AND INJURY REDUCTION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 104, S. 591, the Highway Fatality and Injury Reduction Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 591), the Highway Fatality and Injury Reduction Act of 1991.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HOLLINGS. Mr. President, as an original cosponsor of S. 591, I am pleased that the Senate is considering this important measure. This bill would require airbags in cars and multipurpose vehicles like minivans, on a reasonable, phased-in schedule. Rarely has there been such unanimity on the importance of a type of safety equipment. All experts, including the National Highway Traffic Safety Administration [NHTSA] and the industry, agree that airbags are the best occupant protection in a frontal crash when used with a seatbelt. Yet current NHTSA rules permit the installation of airbags or automatic seatbelts, even though seatbelts are not as effective as airbags. This bill will correct that deficiency in current law.

Unfortunately, without this mandatory requirement, airbags have been available primarily to those who can buy luxury model vehicles. To the automakers' credit, they are changing this situation and have announced plans to have airbags in a significant portion of their fleets by model year 1994. Nevertheless, we need to make sure that all consumers have this life-saving technology in their cars and multipurpose vehicles. This bill will do that.

When we know how to save lives, we should make sure that consumers get the benefits of that knowledge. Everyone agrees that airbags save lives. There should be no opposition to making them widely available. I urge my colleagues to support this bill.

Mr. DANFORTH. Mr. President, I am pleased to join Senators BRYAN, GORTON, ADAMS, and others in urging Senate passage of the Highway Fatality and Injury Reduction Act of 1991, legislation to require the installation of airbags in all passenger cars and light trucks. Each year, 45,000 Americans die in highway crashes and another 520,000 are hospitalized with serious injuries.

The single most important vehicle improvement we can make to reduce these fatalities and injuries is to require airbags in all cars and light trucks, which include minivans, four-wheel drives, and pickups. Under DOT's passive restraint rule, a car or light truck must be equipped with either airbags or automatic seatbelts. Although either option is available to manufacturers, statistics prove that airbags provide superior protection. So-called automatic seatbelts have not substantially increased belt use rates. These automatic belts can be either manually operated or, in some cases, may have motorized shoulder harnesses. A 1989 Insurance Institute for Highway Safety study on nonmotorized automatic belts found that the automatic feature had been disabled on one or more belts in 95 percent of the new cars it surveyed in dealer showrooms. Motorized automatic belts provide an automatic shoulder harness, but require the driver or passenger to buckle the lap belt. A report by the Highway Safety Research Center of the University of North Carolina found that less than 30 percent of the occupants of cars with motorized belts connected their lap belts. A June 13 New York Times article raised serious questions about whether vehicle occupants are protected adequately by motorized shoulder belts if they are not wearing their lap belts. The article cited the case of a crash involving a Georgia woman who was decapitated in a crash in which she was wearing a motorized shoulder belt and no lap belt.

Even when a seat belt is worn properly, it is not as effective as an airbag. A German study assessed the effectiveness of automatic belts on more than 600 passengers involved in frontal collisions. The study found that, even with automatic belts, 30.4 percent of the drivers suffered a head impact and 10.6 percent suffered skull-brain trauma. The study also found that 28.6 percent of the drivers sustained chest injuries. There also have been reports in this country about poor performance of automatic belts. According to the In-

stitute for Injury Reduction, there have been crashes where a nonmotorized belt, which is connected to the door, allowed the driver of the car to be ejected when the door popped open.

In light of this overwhelming evidence, safety experts agree that seat belts cannot provide the protection that airbags provide in a severe crash. Even the Automotive News, in an editorial entitled "Most Passive Belts are Actively Foolish; Bring on the Bags," has recognized that:

A not very funny thing happened on the way to getting airbags in cars: a new generation of every-worse seat belts. * * * The long-term solution is airbags and normal three-point belts. Fortunately, buyers now want bags. * * * Everybody should hurry it up. The sham-passive belts will be a short-lived, unfortunate footnote in the history of car safety.

In contrast to automatic belts, airbags have been a great success. State Farm Insurance Co. has been tracking the experience of its policyholders with airbag-equipped cars. In all but 5 out of 4,065 accidents in which the airbag deployed, the drivers survived. In Missouri alone, 164 State Farm policyholders have been saved from death or more serious injuries by airbags.

Examples of crashes of vehicles equipped with airbags eliminate any doubt regarding their lifesaving value. On August 31, 1990, an airbag-equipped Chevrolet Camaro slammed into a tree in Meridian, MS. The driver walked away from the accident, even though police said the care was traveling 50 mph when it hit the tree. On March 12, 1990, two airbag-equipped Chrysler Lebarons collided head on in Culpepper County, VA. The vehicles were destroyed, but the drivers walked away with minor bruises. In the summer of 1989, in Lancaster County, VA, the driver of a Chrysler LeBaron convertible with an airbag survived a head-on, 80-mph closing speed crash with a full-sized station wagon. In another accident 2 years ago, an 18-year-old driver from Lee, NH, survived a 50-mph crash into a large tree stump because he was driving an airbag-equipped Dodge Daytona. In July of 1989, in the mountains outside of Boise, ID, the Lincoln Continental driven by the parents of newswoman Kathleen Sullivan flew off the road. The car flew 58 feet in the air before landing on its roof. Local police and DOT officials said the couple survived the crash because their Continental had driver- and passenger-side airbags.

DOT has estimated that the general availability of airbags in passenger cars could prevent 8,000 fatalities annually. About 40 percent of all 1991 model cars will have driver-side airbags and a number of models will also have passenger-side airbags. Unfortunately, to date, very few small cars have been equipped with airbags. This omission means that the already existing difference in fatality rates between small and large cars will expand. Moreover, only a few light truck models have airbags.

Our legislation would eliminate some of these safety gaps. It requires all passenger cars manufactured on or after September 1, 1995, to have both driver- and passenger-side airbags. In addition, family vehicles, such as minivans, four-wheel drives, and small pickups manufactured after September 1, 1996, must have driver-side airbags, and those manufactured after September 1, 1997, must have both driver- and passenger-side airbags.

The American public has waited long enough for airbags in passenger cars, small trucks, and minivans. It is time we had them. I urge my colleagues to join me in supporting this lifesaving legislation.

Mr. BRYAN. Mr. President, I am pleased that the Senate is considering today a bill that will save thousands of lives each year by insuring that consumers who buy passenger vehicles will have airbags in their vehicles. It is rare that we have the opportunity to literally save many lives through a simple legislative measure. The National Highway Traffic Safety Administration has estimated that up to 12,000 lives each year can be saved if all cars have driver and passenger side airbags.

Airbags provide an important example of the potential for enhancing safety through technology, and a lesson in how difficult it can be to get that technology to the consumer. Everyone agrees that people are safer in cars that have airbags. And we have dramatic examples of more and more people who literally owe their lives to airbags.

However, the law is lagging behind technology. Current law requires at most that cars have either automatic seatbelts or airbags in the front seat of the vehicle. Other passenger vehicles—including the minivans used by many families, small pickup trucks, and jeeps—are not required to have either safety device, although a rulemaking to consider such a requirement is ongoing.

We know that automatic seatbelts are not as effective as airbags in protecting people in front end crashes. We also know that many automatic seatbelts are so poorly designed that they are often disconnected. Airbag-equipped cars are unquestionably safer.

Moreover, even though automakers seem to have become believers in airbags, without mandatory standards the vehicles that get airbags often are only the luxury models which are not affordable for many people. It is indefensible that a proven safety technology as effective as airbags would be available only if you can pay more for your car.

The bill we are considering today will correct this problem. It will require that cars manufactured after September 1, 1995, have airbags in the driver and passenger front seats. It also will require that vehicles such as jeeps, minivans, and small pickups have airbags in the driver's side after September 1, 1996, and that they have driver and passenger side airbags after September 1, 1997. It has already been passed by the Senate as an amendment to the highway bill, S. 1204. However, in order to give this important measure the maximum opportunity for consideration by the House of Representatives, I am asking my colleagues to also pass S. 591 as a freestanding bill.

Even though carmakers have said they will soon have airbags in most of their cars without this legislation, the bill is careful to give them several years leadtime in case some of them need to change some product plans. And the bill will insure that the current laudable plans to provide airbags are actually carried out in a timely fashion. With respect to pickups, minivans, and jeeps, the bill covers the same vehicles addressed in NHTSA's rule to require automatic seatbelts or airbags. NHTSA's rule would not insure that airbags are in these vehicles. Yet we know that the families that use these vehicles would be safer if they had those airbags.

The time has come to provide consumers with the safety benefits available through airbags. For evidence of this we need look no further than the auto industry itself, which now bases major advertising campaigns on its willingness to provide airbags. We must insure that the positive move toward airbags continues at a reasonable pace, and this legislation will do that. I urge my colleagues to join me in giving consumers the safety they want and need.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 591

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Highway Fatality and Injury Reduction Act of 1991".

DEFINITIONS

SEC. 2. In this Act, the term—

(1) "bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons and having a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less.

(2) "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry 10 persons or less, which is constructed either on a

truck chassis or with special features for occasional off-road operation, and which has a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less.

(3) "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer), designed for carrying 10 persons or less.

(4) "truck" means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment and having a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less.

AIRBAGS

SEC. 3. (a) Passenger cars, trucks, buses, and multipurpose passenger vehicles shall, in accordance with the following schedule, be equipped with airbags complying with the occupant crash protection requirements under S4.1.2.1 of Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations:

(1) All passenger cars manufactured on and after September 1, 1995, shall be so equipped for both the driver and right front seat outboard seating positions.

(2) All trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1996, and before September 1, 1997, shall, at a minimum, be so equipped for the driver side.

(3) All trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1997, shall be so equipped for both the driver and right front seat outboard seating positions.

(b) For purposes of sections 108 through 112, 114, 115, 116, 118, 120, 121, and 151 through 158 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1397 through 1401, 1403, 1404, 1405, 1406, 1408, 1409, and 1411 through 1418), the requirements of subsection (a) are deemed to be a Federal motor vehicle safety standard prescribed pursuant to section 103 of that Act (15 U.S.C. 1392).

Mr. MITCHELL. I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business not to extend beyond the hour of 6:45 p.m. today with Senators permitted to speak therein, and that at 6:45 p.m. today the majority leader or his designee be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

PENNSYLVANIA NEEDS GRECC's

Mr. SPECTER. Mr. President, I recently had the good fortune to travel with Secretary of Veterans Affairs Edward Derwinski to visit three of our VA medical centers in Pennsylvania: Philadelphia, Wilkes-Barre, and Pittsburgh.

One of the items that the Secretary and I discussed was the issue of the "graying" of our veteran population. Right now, about 30 percent of our 1.6 million Pennsylvania veterans are age 65 or older. Within the next 20 years, that percentage is expected to climb to 40 percent.

That is why I told the Secretary that I consider it extremely important that VA establish Geriatric Research, Education, and Clinical Centers—known as GRECC's—in Pennsylvania.

GRECC's were first authorized in Public Law No. 96-330, and are codified in section 4101(f) of title 38, United States Code. They are centers of excellence whose goals are to attract outstanding professionals to teach and to conduct research on aging in a clinical context, thereby having a positive effect on the provision of health care services to older veterans. While the Congress originally authorized 15 GRECC's nationwide in 1979, I was pleased to vote, in 1985 to increase that number to 25.

At this time there are 12 GRECC's in Massachusetts, Florida, Michigan, Arkansas, Washington State, North Carolina, Texas, and other States. GRECC's should be located in Pennsylvania.

In my view, Mr. President, GRECC's are essential to the development of new and innovative approaches to geriatric medicine which are humane, effective, and of appropriate quality. Indeed, Congress has heard testimony concerning VA's leadership role in the development of geriatrics in this country through the GRECC Program.

This kind of research is also cost effective. In a recent report entitled "Extending Life, Enhancing Life," the Institute of Medicine, a prestigious body affiliated with the National Academy of Sciences, tells us that the number of Americans 85 years or older is growing six times as fast as any other population segment. That report also tells us that the cost of caring for disabled older people will double in the next decade unless ways are found to prevent or delay disabling illness.

In 1990, support for research on aging from all sources—the National Institutes of Health, the Department of Veterans Affairs, other Federal departments and agencies and private foundations—totaled about $600 million. That's less than one-half of 1 percent of the $162 billion this country spent in 1987 to care for the disabilities and illnesses of older patients. The Institute's report emphasizes that this incredibly small investment is "a wasteful strategy in light of the potential contribution of research to improve the status of older persons and to reduce the enormous and expanding costs of their care."

Julius R. Krevans, chancellor of the University of California at San Francisco, and chairman of the panel which produced the report, illustrated in simple—but astounding—terms the cost effectiveness of this kind of research: "If we were able to postpone for one month the onset of the type of disability that leads to an elderly patient being placed in a nursing home," he said, "we would be talking in terms of savings of more than $3 billion a year."

I ask unanimous consent that an article on this report from the June 13, 1991, New York Times be inserted following my remarks.

Mr. President, Pennsylvania is one of the most veteran-rich States in our Nation. As a member of the Committee on Veterans' Affairs since I was first elected to this body, and as its ranking Republican member since the beginning of this Congress, I have developed a special appreciation for the crucial part Pennsylvania veterans have played in the ongoing greatness of America. I also know that Pennsylvanians love their State and are not generally part of the southward migration which has had such an overwhelming effect on some of our Sun Belt VA facilities.

The aging veterans in my State deserve the benefits which a GRECC can provide. They deserve the quality of life for which they were willing to risk their very lives.

That is why, Mr. President, I will be working closely with Secretary Derwinski to ensure that one of the these centers is established as soon as possible in Pennsylvania.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 13, 1991]

MILLIONS MORE FOR STUDY ON AGING COULD SAVE BILLIONS, REPORT SAYS

WASHINGTON, June 12.—Spending $312 million more each year on medical research into aging could save the nation billions of dollars and significantly improve the quality of life for America's elderly, a new Institute of Medicine report says.

The report, issued today, said the United States spends about $600 million on research into relieving the ailments of aging each year, while the cost of treating health problems of the elderly is more than $162 billion annually. The nation needs to increase research on the elderly to at least $913 million, the report said.

The Institute of Medicine is affiliated with the National Academy of Sciences, which is chartered by Congress to act as a scientific and technical adviser to the Federal Government.

"There are economic gains to be made by this research," said Julius R. Krevans, chairman of the committee that produced the report. "But greater gains would be in the quality of life that will be achieved by this research."

FAST-GROWING POPULATION

The report said that the number of Americans 85 years old or more is growing six times as fast as any other population segment and that the cost of caring for disabled older people will double in the next decade unless ways are found to prevent or delay disabling illnesses.

Mr. Krevans said studies show that if research found a way to delay by only a month the time that an elderly person goes into a

nursing home, the nation could save $3 billion a year.

Research recommended by the committee would be directed not only toward preserving life, but also toward preserving function, thus enabling the elderly to be independent and free of disabling disease for a longer time.

"If we don't find ways of dealing with these issues, then the amount we're spending to care for these people is going to explode," said Mr. Krevans.

Some of the research is obviously needed and long overdue, the committee said.

Dr. John W. Rowe, a committee member who is president of Mount Sinai School of Medicine in New York, said there are 200,000 hip fractures a year in the United States. These usually occur among the elderly from falls and the injuries often end up permanently disabling older people.

Yet, there has been little research into the loss of balance, dizziness and fainting that leads to broken hips, he said.

"It's time to study why people fall." Dr. Rowe said. The idea sounds simple, he noted, but it has not been done and such studies have the potential of increasing the healthy life span.

"There is a lot of disability in old age that is preventable," he said, but research in the field has been neglected.

Dr. Caleb Finch, a member of the committee who is a professor at the University of California at Los Angeles, said advances in biomedical technology offer opportunities for research into aging.

Dr. Finch said the studies could concentrate on fundamentals like why aging causes the immune system to weaken, a slowing in cell replacement and abnormal cell growth in disorders like cancer or Alzheimer's disease.

GOAL ON QUALITY OF LIFE

"We're not going to eliminate death," he said. "We're not going to provide human immortality." But the research could improve the quality of life and function for the elderly.

The report, "Extending Life, Enhancing Life," recommends spending money on these areas of research:

Abnormal cell proliferation and the aging of the brain.

Preventing and correcting disabilities among the elderly, including heart, brain, muscular and metabolic disorders.

Social and psychological factors related to the aging process.

Health care delivery services.

The committee report also called for construction of 10 centers to concentrate on studies of the elderly. The report said this would require a one-time investment of $110 million.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,306th day that Terry Anderson has been held captive in Lebanon.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is concluded.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended until 7:15 p.m., during which time Senators may be permitted to speak, and that at 7:15 p.m. the majority leader or his designee be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I understand that we are currently in morning business; is that correct?

The PRESIDING OFFICER. The Senator is correct.

WHITE COLLAR CRIME

Mr. WIRTH. Mr. President, in morning business I obviously cannot offer an amendment, but what I wish to do is to once again explain the amendment which I have been attempting to offer and to which there is apparently some consternation and significant resistance on the other side. This consternation and resistance I have not yet been able to fathom or understand.

This amendment has been available now for the last 2 weeks. We have been asking those who are apparently opposed to the amendment to let us know what their problems are, what those problems are so that we might deal with them, and so far have had no response and no luck in getting an explanation as to why there is concern about this.

So let me once again if I might explain the amendment. We are currently debating a crime bill. That crime bill is dealing with a whole variety of issues running from habeas corpus to the death penalty, gun control, and so on. All of this is related to various aspects, or for the most part, related to various aspects of violent crime and crime as one traditionally views it, drug-related crime, street crime, and so on.

But there is a vast amount of crime in the country which effectively is not touched by this legislation or at all. The purpose of the Wirth amendment, which I and a great number of my colleagues wish to offer—I will list those colleagues right now: Senators ROCKEFELLER, WOFFORD, CONRAD, BRYAN, SIMON, LAUTENBERG, DASCHLE, METZENBAUM, HARKIN, KERREY of Nebraska, RIEGLE, FOWLER, WELLSTONE, and BINGAMAN. I am sure there will be many others as people come to understand what this amendment is all about. The purpose of this amendment is to help to get after the issue of white collar crime.

And what white-collar crime am I speaking about, Mr. President? The taxpayers of this country know what white-collar crime is. They are paying a tab today of at least $160 billion lost dollars in the S&L crisis; $160 billion has already gone down the chute or is projected this year to go down the chute, and there is going to be more—$160 billion already, Mr. President—and the taxpayer ought to know where that money is going.

That is the thrust of this amendment. Where is the money going? What happened in the S&L's? Let us make this all a mater of public record. What are we afraid of? Why are not these issues made public?

The public is spending $160 billion and the public does not know why an S&L failed, what happened, what regulatory failure was out there, what kind of arrangement might have been made between the regulator and the institution. And once there was a failure and the Government moved back in, brought suit against the board members or others tied to the failed S&L, we do not know what kind of a deal might have been cut between the Government and those individuals. If there was a settlement of a lawsuit, what were the terms and conditions of the settlement? One hundred sixty billion dollars of taxpayer money, Mr. President, and we do not have the ability to publicly find out what happened.

Now where does this $160 billion come from? You will remember, Mr. President, that just prior to the 1988 election, we were told that the total cost of the S&L bailout would be $19 billion. That would be perfectly adequate to do the job Mr. Gould told us in August 1988, 3 months before the 1988 election. Right after the 1988 election, the amount of money for the S&L failure ballooned significantly, and in 1989, the administration came back and told us that $19 billion was not adequate but in fact they needed $40 billion plus a $10 billion cushion.

The Congress said, "Well, you are trying to work out these S&L's. We will provide you with $50 billion." So by the end of 1989, Mr. President, the tab had gone up to about $50 billion. Was that enough? Not the case.

In 1990, the administration came back and asked us for another $40 billion; another $40 billion in 1990. So the

tab then went to about $90 billion by the end of 1990. Was that adequate? Not enough.

And in 1991, we just heard that the total amount of lost money is going to be $160 billion. And this, Mr. President, does not include working capital. That is the capital required to work through and resolve these institutions which presumably the Government is going to get back. We will get that working capital back in terms of asset sales.

If you believe that all that working capital is going to come back, Mr. President, I suspect you would also believe that the Brazilians and others are going to be repaying their debt as well. But we know now that we are into this for at least $160 billion.

Where has the money gone, and why, why did these institutions fail?

Mr. President, I ask unanimous consent that a brief summary of the public disclosure amendment be printed in the RECORD following my remarks.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

(See exhibit 1.)

Mr. WIRTH. Mr. President, the purpose of the amendment is a very simple one. It requires Federal banking regulators to publish prior examination reports of a bank or thrift that fails or is provided public assistance. If public money goes in, we should know why it was that that institution failed.

Is that asking too much? It seems to me it is not, Mr. President. We ought to know. A vast amount of public money being spent is going into these failed institutions. Why does the public not know what happened?

So that is requirement No. 1 of the amendment which I would like to offer.

The second requirement requires the FDIC and the RTC to disclose all settlements regarding any claims arising from a failure of a bank or a thrift. There are settlements that are made between the Government and the members of the boards of these various institutions and other parties with ties to the institutions. Those settlements ought to be public. The public ought to know what their Government settled to do. It is public money that is used. Why cannot the public know?

Now some have suggested that this amendment is not a good idea because it might reach to those healthy institutions that have bought a failed S&L. That is not the case. This does not reach or touch those institutions at all. They have nothing to do with this. They are totally carved off. This only applies to failed institutions.

So if the argument or the reason for the opposition on the other side to this amendment, of which we have gotten no formal response, only the fact that they object and apparently quite strenuously to this veritable public disclosure amendment, if the reason for their objection is that they believe this touches healthy institutions, that is not the case. There is nothing in the language of the amendment that suggests that if they believe that there is something to suggest that, we will be happy to change the amendment and make sure very exclusively that healthy institutions are carved out. Others have suggested that this may threaten lawyer-client relationships, that there are lawyers involved in these institutions and that the lawyer-client relationship, a private, obviously privileged relationship somehow might be compromised by this amendment. Not the case.

There is nothing in this that touches in any way, shape, or form that lawyer-client relationship. It only touches those institutions themselves. It has nothing to do with the lawyer-client relationship.

Some have also suggested that the problem with this amendment is that it focuses only on one case, the Silverado case in Colorado, and that this is an attempt somehow to embarrass the Bush family or Neil Bush. Not the case.

The amendment is not limited to one institution or one settlement. I have not said anything linking the amendment to Silverado previously, and if this is a concern we'll cut that out, we will explicitly say that this has nothing to do with the Silverado settlement. We will explicitly take out that settlement.

So if there is concern about that, we will take that out. Just let us know. We will be happy to see if we can work it out. I cannot believe that the opponents, the apparent opponents—apparently there is a great deal of concern about this amendment—that the opponents of the amendment are going to have a problem with the idea of public disclosure of where public funds have been spent.

Mr. President, it has been said that sunshine is the best antiseptic. Certainly, I believe that that is the case. This is a sunshine amendment. This sunshine amendment will open up a valuable window into thrift failures and give taxpayers access to important information about why a financial institution failed and made the use of tax dollars necessary.

Why do we need this amendment? Well, there are so many of these failed institutions we do not have the capability here, with a very small staff available to the Senate Banking Committee, to go and investigate each one of these failed thrifts. There is no way we can do that. There is no way we can figure out what were the relationships between the regulators and the board members and the thrifts. What were their relationships? What did the regulators do over the last 3 or 4 years? Where were they if there were any? We have no way of finding that out. Was there any kind of analysis done of these amendments at all?

What this would do would be to open up that record so that public groups, public interest groups, citizen groups, the press, could go in and take a look. If there is a failure in East Orange, CA, or South Plains, TX, or North Rocky, CO, or whatever community it may be, if there is a failure in those communities, the local press, for example, can go into and try and find out what happened and try to dig this sort of thing out. And if there were irregularities involved, the public ought to know, the public ought to know who did what to whom.

This is $160 billion that we are talking about, Mr. President, $160 billion. It seems to me that the taxpayers are entitled to know why an expenditure of this scale became necessary.

But, today, taxpayers have no idea for the most part why an institution failed and have no means to obtain that information. You cannot get this information under the Freedom of Information Act. In some situations these documents have been leaked out. But you cannot get this information. You cannot get it at all.

This also would not currently apply to banks. Again let me say this does not apply to health institutions. It only applies in settlements of lawsuits filed by the Government against individuals and businesses involved in an institution's failure and the examination reports of banks and thrifts that have failed. This can provide valuable insight into why these institutions failed.

It seems to me this is just a very clear, simple, straightforward amendment to let the country's citizens know where this enormous amount of taxpayer expense is going.

Finally, let me say I understand there is significant resistance on the other side, for reasons I do not understand. I have laid out what I have had heard over the transom are problems that they have. If there are problems, we will be happy to fix this amendment.

People will say, does this belong on this bill? Of course it does. We are talking about white collar crime. We are not talking about guns and we are not talking about drugs. We are talking about blatant high-powered, white-collar crime; stealing from the taxpayers. The taxpayers ought to know where that money has gone.

In closing, I am concerned that the opponents will not even allow, under the current procedures, this amendment to come up. I am appalled by that. What do they have to hide? What is the problem? I wish they would come out here and tell us what is the problem. Why is open disclosure of how $160 billion of taxpayer money has been spent, why is that not a matter of public record? What is there to hide? There

must be something to hide or there would not be this enormous concern.

I urge those who apparently oppose this amendment to let us know why. I would urge them to let us be able to proceed and have this amendment part of the crime bill. It is a crime, $160 billion down a rat hole.

To reiterate, Mr. President, I had hoped to offer the public disclosure amendment that I described before the July 4 recess. I had hoped we could consider it then and have been willing to enter into a time agreement so that we could swiftly debate and vote on the proposal. Instead, some of my colleagues on the other side of the aisle have resisted consideration of the amendment. I continue to hope that we may resolve the matter swiftly so that passage of the crime legislation will not be further delayed.

This sunshine amendment will open a valuable window into thrift failures and give taxpayers access to important information about why a financial institution failed and made the use of tax dollars necessary.

The estimated cost of the S&L crisis has increased steadily in recent years, from $19 billion in August 1988 to $160 billion today. We may see it increase further before we are through. Even if the current estimates hold, we will still have to pay hundreds of billions of dollars more to pay the interest on the funds borrowed to resolve the problem. Taxpayers are being forced to provide billions of dollars to resolve the industry's problems.

Fundamentally, I believe taxpayers are entitled to know why an expenditure of this scale became necessary. But today, when taxpayer money is spent on a failed thrift or bank, the taxpayers often have no idea why the institution failed, and have no means to obtain that information.

The public disclosure amendment has two principal parts. First, the amendment requires regulators to publish prior examination reports of a failed thrift or bank if taxpayer funds are used to cover the institution's losses or otherwise assist the institution. Second, the amendment prohibits the Federal Deposit Insurance Corporation [FDIC] and the Resolution Trust Corporation [RTC] from entering into secret agreements to settle lawsuits arising from the failure of a bank or thrift if the deposit insurance system requires public funds.

It is important to note that the requirements of the amendment only apply when the deposit insurance system has received taxpayer funds. When the insurance fund is healthy and failures are addressed with the industry's deposit insurance premiums, the amendment would not apply.

Today, the amendment would apply to savings and loans that are resolved by the Resolution Trust Corporation or whose remaining assets or liabilities are managed by the FSLIC resolution fund because both of those entities have used tens of billions of taxpayer money to meet their obligations.

The publication requirements would not currently apply to banks. However, if the administration's proposal authorizing the FDIC to borrow $70 billion from the taxpayer becomes law and taxpayer funds are borrowed, the publication requirements would be effective as long as that potential taxpayer liability was outstanding.

Settlements of lawsuits filed by the Government against individuals and businesses involved in an institution's failure and the examination reports of banks and thrifts can provide valuable insight into why an institution failed and why tax dollars were needed to cover the institution's losses.

Unfortunately, under current law, this important information is not available to the public. The amendment would correct that and shed some light on how the S&L crisis developed.

Disclosure is more than just an obligation to the taxpayer, it offers important benefits as well. Public disclosure can act as a forceful deterrent. Both bankers and regulators should know that the public will examine their actions when banks fail and hold them accountable.

Disclosure should not only promote more thorough bank examinations, but also fairer examinations. Some bankers have complained that examiners act arbitrarily. If disclosure is required, any arbitrary acts by the examiners will also come to light.

I would not be surprised if the banking regulators oppose this proposal. Some examination reports will, in retrospect, look bad after an institution has failed. I am sure that there are reports that regulators hope will never see the light of day. Other reports, no doubt, will show examiner warnings that should have been heeded.

Lax supervision did play a role in the S&L crisis—the combination of deregulation of thrift activities and relaxed supervision of thrifts was perhaps the greatest mistake of the 1980's. But the blame for that should not lie with the regulators. They were overworked at the time and requests for additional staff were ignored by an administration that felt a deregulated industry did not need supervision, acting as if there were no such thing as Federal deposit insurance.

Some banking regulators have opposed similar disclosure efforts in the past, arguing that disclosure will lead to bank runs. For example, regulators opposed the change in FIRREA that required the bank regulators to publish their final orders on enforcement actions. They said there would be bank runs; they said the sky would fall in. It did not. And regulators opposed the change in the Crime Control Act of 1990 that required the bank regulators to publish all of their enforcement orders and agreements. They said there would be bank runs; they said the sky would fall in. It did not.

I would not be surprised to see our financial regulators object to these disclosure requirements as well. However, in the case of institutions that have already failed the possibility of bank runs is not a concern.

Other administration officials have understood the importance of the sunshine of public disclosure in regulation of the financial industry. For example, Securities and Exchange Commission Chairman Richard Breeden, the White House's point man on the S&L cleanup when President Bush first took office has said:

> I would hope we would learn from the disastrous experience of the thrift crisis as we move forward in developing both accounting and disclosure standards * * *. I think public disclosure is the greatest disinfectant, one of the greatest disinfectants ever invented.

Mr. Marshall Breger, the Chairman of the Administrative Conference of the United States, an independent agency that develops recommendations to improve the administration of Federal programs, including regulatory efforts has said:

> The traditional approach to the oversight of financial institutions—namely, heavy reliance on informal or "quiet" procedures to achieve legislative and regulatory policy goals—was satisfactory because the workload was under control and there was no apparent systemic problems that needed to be solved. But when significant failures erupt among regulated entities, and the day-to-day workings of the federal agencies become front page news, traditional informal, nonadversarial, back-room approaches are no longer sufficient. Enhanced decisional regularity, procedural openness, and greater public accountability are now demanded * * *. I think sunlight, to quote Justice Brandeis, is indeed the best disinfectant.

I think Mr. Breeden, Mr. Berger, and Justice Brandeis are right. Sunlight is the best disinfectant. Sunlight offers a check against dangerous practices. If people want to keep their business practices private—there's an easy way to do it. Run a safe and sound institution. That is what we all want to see.

We should remember that banks are not a typical private business. They receive significant benefits from taxpayer support and guarantees. Deposit insurance and access to credit through Federal institutions such as the Federal Reserve and Federal home loan banks are examples of the special support we give depository institutions. With this kind of government backing, thrift and bank problems are a legitimate public concern.

When the insurance funds are healthy, losses are covered by private funds—the insurance premiums paid by banks and thrifts—and a degree of privacy is appropriate. But when the so-called safety net breaks down and tax dollars are tapped, we are in a different situation. Taxpayers have a right to

know. And if a desire to avoid disclosure gives a thrift or bank another incentive to avoid excessive risks and fight harder to stay solvent, we will all benefit.

The public will benefit from public disclosure of both examination reports and settlements of lawsuits the Government files against individuals involved with failed financial institutions. Public disclosure does not mean the FDIC and RTC shouldn't pursue settlements of lawsuits, however.

FDIC and RTC lawsuits will offer an important window into the actions of management, directors, legal representatives, and auditors and how they contributed to a bank or thrift failure. Even a public settlement partially closes that window as witnesses do not testify and documents are not filed as evidence as they would if the suit went to trial. But regulators should be able to settle these lawsuits to avoid costly and time-consuming litigation that often has an uncertain outcome and free up FDIC or RTC resources to pursue other cases.

Settlements can be in the best interests of taxpayers. And partially closing the window is the price we pay for pursuing settlements. But we should not bring the shades down completely. That is why I think settlements should be available to the public. The public has a right to know about settlements if they are footing the bill for a bailout.

As long as settlements can be kept secret, public suspicion is inevitable. The public doesn't have a high degree of confidence in our banking regulators right now and are unlikely to trust secret settlements that offer the appearance of backroom deals. I believe taxpayers have a right to know about these settlements. But, just as importantly, I think disclosure of both settlements and examination reports will help stem the loss of public confidence in our financial regulators.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of the cosponsors of the Wirth public disclosure amendment, a letter to me from Sherry Ettleson, staff attorney of Public Citizen's Congress Watch, and a letter to me from Peggy Miller of the Consumer Federation of America.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COSPONSORS OF WIRTH PUBLIC DISCLOSURE AMENDMENT

Rockefeller, Wofford, Conrad, Bryan, Simon, Lautenberg, Daschle, Metzenbaum, Harkin, Kerrey, Riegle, Fowler, Wellstone, and Bingaman.

PUBLIC CITIZEN,
Washington, DC, July 9, 1991.

Hon. Senator WIRTH,
U.S. Senate, Washington, DC.

DEAR SENATOR WIRTH: On behalf of Public Citizen's Congress Watch I am writing to express our strong support for your Public Disclosure amendment to the Crime bill.

Taxpayers are paying billions of dollars to bailout hundreds of failed savings and loans. And soon taxpayers undoubtedly will be required to do the same for the banks. It is essential that the public have a complete and accurate accounting of where their tax dollars are going and why these institutions failed.

Your amendment to prohibit bank regulators from entering into secret agreements to settle claims arising from the failure of a bank or thrift and to require bank regulators to disclose the examination reports of failed institutions will help ensure that regulators are held accountable and act responsibly. It will help prevent such a financial crisis from ever happening again. Indeed, it will drag the regulators of the financial industry where they have never been before—into the sunlight of public accountability. This is the only way the public can make sure that regulators are not creating a new scandal while cleaning up another.

American taxpayers are already paying an outrageously steep price for the consequences of private-sector fraud and regulatory secrecy and ineptitude. There is no room for secrecy in the clean up efforts.

Sincerely,

SHERRY ETTLESON,
Staff Attorney,
Public Citizen's Congress Watch.

CONSUMER FEDERATION OF AMERICA,
Washington, DC, July 6, 1991.

Senator TIM WIRTH,
380 Russell Senate Office Building, Washington, DC.

DEAR SENATOR: I wanted to commend your decision to sponsor an amendment to S. 1241 which would require the public disclosure of information concerning examinations of failed federally-insured financial depository institutions.

In this era of increased bank and thrift insolvencies, which seems linked to the highly complex investment and ownership interworkings between financial companies and individuals, it becomes imperative for the public to have access to the information surrounding the decisions to close, merge or sell federally-insured institutions.

Regulators face extreme pressures to act quickly, and must evaluate enormous amounts of material when conducting an examination of a federally-insured depository institution.

Disclosing information of such examinations will serve to improve the inspection and understanding of the decisionmaking behind the final regulatory takeovers and resulting contracts. It will further help to clarify the chains of individuals and corporate involvement thereby helping to reduce fraudulent behavior.

We strongly support the inclusion of such an amendment on S. 1241.

Sincerely,

PEGGY MILLER.

EXHIBIT 1

SUMMARY OF PUBLIC DISCLOSURE AMENDMENT

DISCLOSURE REQUIREMENTS

Requires federal banking regulators to publish prior examination reports (going back five years) of a bank or thrift that fails or is provided public assistance.

Requires the FDIC and RTC to disclose all settlements regarding any claims arising from the failure of a bank or thrift.

INSTITUTIONS COVERED BY DISCLOSURE REQUIREMENTS

The amendment covers institutions that fail and receive assistance from the deposit insurance fund when the fund has received funds from the U.S. Treasury, or has received a loan from the Treasury, either directly or indirectly through the Federal Financing Bank or a Federal Reserve Bank.

The amendment would apply to all savings and loans that are either resolved by the Resolution Trust Corporation or whose remaining assets or liabilities are managed by the FSLIC Resolution Fund because both of those entities have used tens of billions of taxpayer money to meet the failed institution's obligations.

INSTITUTIONS NOT COVERED BY DISCLOSURE REQUIREMENTS

The publication requirements do not apply unless taxpayer funds are either directly or indirectly involved. If a bank or thrift goes out of business without requiring taxpayer assistance, examination reports and settlements would not have to be made public.

The publication requirements of the amendment would not currently apply to banks, because the FDIC is not currently using taxpayer funds, and has not borrowed any money, directly or indirectly, from the Treasury. However, if the Administration's proposal that authorizes the FDIC to borrow $70 billion from the taxpayer becomes law and the funds are borrowed, the publication requirements would be effective for failed banks as long as that taxpayer liability was outstanding.

REGULATORY DISCRETION

If the regulators believe that publication of an examination report would seriously threaten the safety or soundness of any insured institution, they may delay the publication of an examination report for up to 6 months.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I commend my colleague from Colorado for his leadership on this. Just as a general rule in government, when we put things out in the open, the public has a chance to know whether we are making decisions in the public interest. If we do things in secret, there is an excellent chance the public interest is not being served. And particularly when we have these kinds of dollars involved.

Way back when, when I was in the State legislature as a young, green State legislator, I introduced a bill requiring local city councils and school boards and county boards to have their meetings open to the public. I was amazed at the squealing and the resistance that we had to something that simple. And the reason for the resistance was, frankly, it was much easier doing the things you do not want the public to know about if you do not have that open meeting.

Here we are talking about the public's dollars, how they are being spent. We are not talking about military secrets. We are not talking about how we put a nuclear weapon together. We are talking about one simple thing, how the public's money is being spent. And the question is: Does the public have the right to know how that is being spent?

Our colleague from Colorado, Senator WIRTH, says the public has a right to

know. And I concur with him completely. Let us stand up and let the public know. If there are abuses—and there are bound to be some abuses when you spend that kind of money—let us find out where the abuses are. But let us not try to operate this Government in secret and invite abuses.

Mr. President, if no one else seeks recognition—I see the Presiding Officer is no longer presiding and the Senator from Nebraska is about to add his eloquent voice to this discussion. I yield the floor.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I, too, want to commend the distinguished occupant of the chair, the Senator from Colorado, for offering this amendment. I, too, am perplexed. It is hard to understand why our friends on the other side of the aisle will not permit this amendment to be accepted without the need for this parliamentary impasse.

It seems to me a rather simple and easy-to-understand requirement. We simply provide the taxpayers of the United States of America access to the information about how their taxpayer dollars are being spent. In particular, on something as expensive as this and as controversial as this, it seems to me it is extremely important to do that. Because we find the administration saying to us that they would like us to get involved less in the matters involving the Resolution Trust Corporation, that all of our second guessing and nitpicking is making it difficult for them to make decisions, making it difficult for them to carry out an expeditious handling of the assets.

One of the reasons we are doing the nitpicking is that the taxpayers do not know what is going on and they are asking us questions that, indeed, we are not able to answer. So I applaud the amendment of the distinguished Senator from Colorado. I appreciate his willingness to bring this out, in particular on the crime bill, where I think it deserves to be accepted and should in fact be accepted by our friends on the other side of the aisle, without any dispute at all. Indeed it seems to me it would be a commonsense thing to occur, were it to be a part of any other spending package.

So I thank my colleague for his effort and appreciate his willingness to make this fight and make this stand right now where, indeed, I think it is extremely important we do so.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. SIMON). The period of morning business having expired, the majority leader is recognized.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, parliamentary inquiry. Is the pending business the crime bill, S. 1241?

The PRESIDING OFFICER. The majority leader is correct.

AMENDMENT NO. 421

Mr. KOHL. Mr. President, I would like to join the distinguished Senators from Vermont and Colorado, Senator LEAHY and Senator BROWN, in offering an amendment to the crime bill. The amendment, which has been adopted, is the Computer Abuse Amendments Act of 1991. As computer technology advances, the techniques for abusing computers also become more complex. These computer viruses and worms have made prosecution tenuous in many cases. Our amendment, by updating 18 U.S.C. 1030—the Computer Fraud and Abuse Act—will clarify the intent standard and the types of actions prohibited. This clarification will benefit both computer users and law enforcement in their effort to limit the episodes of computer abuse.

We all have heard the horror stories of computer viruses ravaging a computer system. Sometimes these acts of abuse are unintended, while at other times they are intentional. This amendment recognizes the difference between malicious, intentional behavior, and unintentional, accidental incident. As a result, the proposed language treates these different degrees of intent in a legally appropriate manner. If the harm from the virus was intended, or the virus was knowingly transmitted or transmitted with reckless disregard of a substantial and unjustifiable risk, the act is punishable as a criminal violation and a civil cause of action arises. If, on the other hand, there was an honest mistake, there is no violation or cause of action.

Mr. President, this amendment is identical to S. 2476, which the Senate passed by voice vote last year. Hearings were conducted by the Technology Subcommittee on computer abuse in the 101st Congress, and a detailed discussion of the amendment, in bill form, is available in Senate Report 101-544. Both the computer users and the computer industry support this proposal. And the Department of Justice has gone on record as believing the amendment will improve existing Federal laws.

Mr. President, I would like to commend my colleagues, Senator LEAHY, chairman of the Technology and the Law Subcommittee, and Senator BROWN, for their work on this amendment. I believe that our efforts will produce a law which will benefit the computer industry and computer users for many years.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1241, a bill to control and reduce violent crime.

Wyche Fowler, Jr., Quentin Burdick, J.R. Biden Jr., B.A. Mikulski, Herb Kohl, Claiborne Pell, Edward Kennedy, Jeff Bingaman, Pat Leahy, Albert Gore, Jr., Joe Lieberman, Wendell Ford, Dennis DeConcini, Alan Cranston, Charles S. Robb, and Tom Daschle.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS FISCAL YEAR 1992

Mr. MITCHELL. Mr. President, pursuant to a previous order granting me the authority to proceed to Calendar No. 117, H.R. 2427, the energy and water appropriations bill, following a consultation with the Republican leader, I now exercise my right to call up that bill.

The PRESIDING OFFICER (Mr. KERREY). The clerk will report the bill.

The legislative clerk read as follows:

A bill (H.R. 2427) making appropriations for energy and water development for the fiscal year ending September 30, 1992, and for other purposes.

The Senate proceeded to the consideration of the bill which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 2427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1992, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of author-

ized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, [$200,566,000] *$176,211,000*, to remain available until expended[: *Provided*, That with funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following items under General Investigations in fiscal year 1992 in the amounts specified:

[Red River Waterway, Index, Arkansas, to Denison Dam, Texas, $500,000;

[Casino Beach, Illinois, $375,000;

[Chicago Shoreline, Illinois, $325,000;

[Illinois Waterway Navigation Study, Illinois, $2,185,000;

[McCook and Thornton Reservoirs, Illinois, $3,000,000;

[Miami River Sediments, Florida, $200,000;

[Lake George, Hobart, Indiana, $330,000;

[Little Calumet River Basin (Cady Marsh Ditch), Indiana, $370,000;

[St. Louis Harbor, Missouri and Illinois, $900,000;

[Fort Fisher and Vicinity, North Carolina, $250,000;

[Passaic River Mainstem, New Jersey, $7,150,000, of which $400,000 shall be used to initiate the General Design Memorandum for the Streambank Restoration Project, West Bank of the Passaic River, as authorized by section 101(a)(18)(B) of Public Law 101-640;

[Buffalo Small Boat Harbor, New York, $70,000;

[Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, $3,200,000; and

[La Conner, Washington, $60,000:

Provided further, That in carrying out the flood control study for Calleguas Creek, California, the Secretary of the Army, acting through the Chief of Engineers, is directed to consider the benefits resulting from a change in cropping patterns to more capital-intensive crops within the floodplain: *Provided further*, That using $425,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete a reconnaissance report and initiate a feasibility phase study of the bank stabilization problems at Norco Bluffs, California, as authorized by section 116(b) of the Water Resources Development Act of 1990: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete preconstruction engineering and design of the Miami River, Florida, sediments project, to include the full dredging of all polluted bottom sediments from the Seybold Canal and the Miami River between the mouth of the river and the salinity control structure at 36th Street, and the disposal of the polluted sediments in an environmentally sound manner, in compliance with Public Law 99-662, using funds appropriated for that purpose in this Act and the Energy and Water Development Appropriations Act, 1991, Public Law 101-514: *Provided further*, That using $200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake the development of a comprehensive waterfront plan for the White River in central Indianapolis, Indiana: *Provided further*, That with $425,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the Olcott Harbor, New York, project, including all activities necessary to ready the project for construction as authorized by Public Law 99-662: *Provided further*, That with $700,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to create, in cooperation with the National Park Service and other agencies as appropriate, a comprehensive river corridor greenway plan for the Lackawanna River Basin, Pennsylvania: *Provided further*, That with $120,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake a study, in cooperation with the Port of Walla Walla, Washington, of the disposition of the current Walla Walla District headquarters: *Provided further*, That using $1,100,000 of the funds appropriated in the Energy and Water Development Appropriations Act, 1991, Public Law 101-514, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete the South Atlantic Cargo Traffic study authorized by section 116(a) of the Water Resources Development Act of 1990 at full Federal expense in accordance with existing law: *Provided, That with funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following items under General Investigations in fiscal year 1992 in the amounts specified:*

Red River Waterway, Index, Arkansas, to Denison Dam, Texas, $500,000;

Chicago Shoreline, Illinois, $150,000;

Illinois Waterway Navigation Study, Illinois, $1,000,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $170,000;

St. Louis Harbor, Missouri and Illinois, $500,000;

Passaic River Mainstem, New Jersey, $5,400,000, of which $400,000 shall be used to initiate the General Design Memorandum for the Streambank Restoration Project, West Bank of the Passaic River, as authorized by section 101(a)(18)(B) of Public Law 101-640;

Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, $700,000; and

La Conner, Washington, $60,000:

Provided further, That using $425,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete a reconnaissance report and initiate a feasibility phase study of the bank stabilization problems at Norco Bluffs, California, as authorized by section 116(b) of the Water Resources Development Act of 1990: Provided further, That with $425,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the Olcott Harbor, New York, project, including all activities necessary to ready the project for construction as authorized by Public Law 99-662: Provided further, That the Secretary of the Army is authorized, in partnership with the Department of Transportation, and in coordination with other Federal agencies, including the Department of Energy, to conduct research and development associated with an advanced high speed magnetic levitation transportaton system: Provided further, That with $120,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake a study, in cooperation with the Port of Walla Walla, Washington, of the disposition of the current Walla Walla District headquarters: Provided further, That using $1,100,000 of the funds appropriated in the Energy and Water Development Appropriations Act, 1991, Public Law 101-514, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete the South Atlantic Cargo Traffic study authorized by section 116(a) of the Water Resources Development Act of 1990 at full Federal expense in accordance with existing law: Provided further, That with $300,000 for the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete a regional environmental reconnaissance study to identify and quantify point and nonpoint sources of pollution of Old Hickory, Percy Priest and Cheatham Lakes in Tennessee, and to complete is reconnaissance study of the nondam alternatives for the Mill Creek flood control project in Nashville, Tennessee.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), [$1,191,310,000] *$1,203,760,000*, of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, to remain available until expended[:- *Provided*, That with funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1992 in the amounts specified:

[Red River Emergency Bank Protection, Arkansas and Louisiana, $5,800,000;

[O'Hare Reservoir, Illinois, $4,000,000;

[Kissimmee River, Florida, $5,000,000;

[Red River Below Denison Dam, Louisiana, Arkansas, and Texas, $2,300,000;

[New York Harbor Collection and Removal of Drift, New York and New Jersey, $2,500,000; and

[Red River Basin Chloride Control, Texas and Oklahoma, $3,000,000:

Provided further, That with $20,500,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the work for the levees/floodwalls and to undertake other structural and nonstructural work associated with the Barbourville, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367 and to continue the work for the river diversion tunnels and to undertake other structural and nonstructural work associated with the Harlan, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367: *Provided further*, That no fully allocated funding policy shall apply to construction of the Barbourville, Kentucky, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project: *Provided further*, That using $44,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to prosecute the planning, engineering, design and construction of projects under the sections 14, 103, 107, 111, 205 and 208 Continuing Authorities Programs: *Provided further*, That using $600,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Salyersville cut-through as authorized by Public Law 99-662, section 401(e)(1), in accordance with the Special Project Report for Salyersville, Kentucky, concurred in by the Ohio River Division En-

gineer on or about July 26, 1989: *Provided further*, That with $750,000 of the funds appropriated herein, or funds hereafter provided in subsequent annual appropriations Acts, the Secretary of the Army, acting through the Chief of Engineers, is directed to award continuing contracts until construction is complete in accordance with the terms and conditions of Public Law 100-202 for the Des Moines Recreational River and Greenbelt project in Iowa: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, shall expend $300,000 of the funds appropriated herein in fiscal year 1992 on plans and specifications, environmental documentation and hydraulic modeling to advance to the maximum extent practicable the project to restore the riverbed gradient at Mile 206 of the Sacramento River in California: *Provided further*, That with funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to construct the project for shoreline protection at Emeryville Point Park Marina, California, under the authority of section 103 of the River and Harbor Act of 1962, as amended, at a total estimated first cost of $1,396,000 with an estimated first Federal cost of $907,000 and an estimated first non-Federal cost of $489,000, in accordance with the plan recommended by the Division Commander in the report entitled Detailed Project Report, section 103, Shoreline Protection Project, Emeryville Point Park Marina dated November 1988. The cost sharing for this project shall be in accordance with the provisions of title I, section 103, of Public Law 99-662 for hurricane and storm damage reduction: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to construct the San Timoteo feature of the Santa Ana River Mainstem flood control project by scheduling design and construction. The Secretary is further directed to initiate and complete design and to fund and award all construction contracts necessary for completion of the San Timoteo feature. Furthermore, the Corps of Engineers is directed to use $2,000,000 of the funds appropriated herein to initiate the design: *Provided further*, That using $1,252,000 previously appropriated for the Hansen Dam, California, project, the Secretary of the Army, acting through the Chief of Engineers, is directed to plan, design and construct a swim lake and associated recreational facilities at Hansen Dam as described in the February 1991 Hansen Dam Master Plan prepared by the United States Army Corps of Engineers Los Angeles District: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to pursue the completion of the Ouachita-Black Rivers Navigation Project in Louisiana and Arkansas, including construction of the required cutoffs and bendway widenings in Louisiana. The Federal Government is authorized to advance rights-of-way acquisition for the cutoffs and bendway widenings at Federal expense, and the State of Louisiana shall have 10 years after construction begins to repay its portion of the costs: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, shall include as project costs in accordance with the Post Authorization Change Report, dated April 1989, as revised in January 1990, the costs for aesthetics for the Brush Creek, Kansas City, Missouri, project, which shall be shared with non-Federal interests under the provisions of section 103(a) of Public Law 99-662: *Provided further*, That with funds heretofore, herein or hereafter appropriated, the Secretary of the Army, acting through the Chief of Engineers, is directed to award continuing contracts until construction is complete in accordance with the terms and conditions of Public Law 101-101 for the O'Hare Reservoir, Illinois, and Wallisville Lake, Texas, projects: *Provided further*, That with funds appropriated herein and hereafter for the Lake Pontchartrain and Vicinity, Louisiana Hurricane Protection project, the Secretary of the Army is authorized and directed to provide parallel hurricane protection along the entire lengths of the Orleans Avenue and London Avenue Outfall Canals by raising levees and improving flood protection works along and parallel to the entire lengths of the outfall canals and other pertinent work necessary to complete an entire parallel protection system, to be cost shared as an authorized project feature, the Federal cost participation in which shall be 70 percent of the total cost of the entire parallel protection system, and the local cost participation in which shall be 30 percent of the total cost of such entire parallel protection system: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to construct project modifications for improvement of the environment, as part of the Anacostia River Flood Control and Navigation project, District of Columbia and Maryland, within Prince Georges County, Maryland, using $700,000 of the funds appropriated herein, under the authority of section 1135 of Public Law 99-662, as amended:] *Provided, That with funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1992 in the amounts specified:*

Red River Emergency Bank Protection, Arkansas and Louisiana, $7,300,000;

O'Hare Reservoir, Illinois, $4,000,000;

Kissimmee River, Florida, $2,000,000;

Red River Below Denison Dam, Louisiana, Arkansas, and Texas, $2,300,000;

New York Harbor Collection and Removal of Drift, New York and New Jersey, $2,500,000:

Provided further, That with $20,500,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the work for the levees/floodwalls and to undertake other structural and nonstructural work associated with the Barbourville, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367 and to continue the work for the river diversion tunnels and to undertake other structural and nonstructural work associated with the Harlan, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367: Provided further, That with $9,000,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue floodwall construction at Matewan, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367: Provided further, That with $17,000,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the lower Mingo County, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367: Provided further, That with $1,110,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete specific project reports for McDowell County, West Virginia, Hatfield Bottom, West Virginia, Upper Mingo County, West Virginia, Wayne County, West Virginia, Tug Fork Tributaries, West Virginia, Upper Tug Fork, West Virginia, and Pike County, Kentucky: Provided further, That no fully allocated funding policy shall apply to construction of the Matewan, West Virginia, Lower Mingo County, West Virginia; specific projects reports for McDowell County, West Virginia, Upper Mingo County, West Virginia, Wayne County, West Virginia, Tug Fork Tributaries, West Virginia, Hatfield Bottom, West Virginia, Upper Tug Fork, West Virginia, and Pike County, Kentucky; and construction of Barbourville, Kentucky, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project: Provided further, That using $40,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to prosecute the planning, engineering, design and construction of projects under the sections 14, 103, 107, 111, 205 and 208 Continuing Authorities Programs: Provided further, That with $750,000 of the funds appropriated herein, or funds hereafter provided in subsequent annual appropriations Acts, the Secretary of the Army, acting through the Chief of Engineers, is directed to award continuing contracts until construction is complete in accordance with the terms and conditions of Public Law 100-202 for the Des Moines Recreational River and Greenbelt project in Iowa: Provided further, That $100,000 of the funds appropriated herein shall be made available to the Town of Krotz Springs, Louisiana for restoration and improvement of Bayou Latanier: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, shall expend $300,000 of the funds appropriated herein in fiscal year 1992 on plans and specifications, environmental documentation and hydraulic modeling to advance to the maximum extent practicable the project to restore the riverbed gradient at Mile 206 of the Sacramento River in California: Provided further, That with $2,500,000 appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with construction of the Fort Yates Bridge, North Dakota and South Dakota project using continuing construction contracts: Provided further, That using $600,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to use continuing contracts to construct hurricane and storm protection measures for Folly Beach, South Carolina, in accordance with the Charleston District Engineer's Post Authorization Change Report dated May 1991: Provided further, That the Secretary of the Army is authorized and directed to provide $100,000, from funds herein appropriated to reimburse the Town of Grand Isle, Louisiana, for interim emergency measures constructed by the Town: Provided further, That within available funds, the Secretary of the Army, acting through the Chief of Engineers, is directed to study, design, and construct streambank protection measures along the bank of the Tennessee River adjacent to the Sequoyah Hills Park in the City of Knoxville, Tennessee, under the authority of section 14 of Public Law 79-526: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to construct the San Timoteo feature of the Santa Ana River Mainstem flood control project by scheduling design and construction. The Secretary is further directed to initiate and complete design and to fund and award all construction contracts necessary for completion of

the San Timoteo feature. Furthermore, the Corps of Engineers is directed to use $2,000,000 of the funds appropriated herein to initiate the design: Provided further, That with funds heretofore, herein or hereafter appropriated, the Secretary of the Army, acting through the Chief of Engineers, is directed to award continuing contracts until construction is complete in accordance with the terms and conditions of Public Law 101–101 for the O'Hare Reservoir, Illinois project: Provided further, That with funds appropriated herein and hereafter for the Lake Pontchartrain and Vicinity, Louisiana Hurricane Protection project, the Secretary of the Army is authorized and directed to provide parallel hurricane protection along the entire lengths of the Orleans Avenue and London Avenue Outfall Canals by raising levees and improving flood protection works along and parallel to the entire lengths of the outfall canals and other pertinent work necessary to complete an entire parallel protection system, to be cost shared as an authorized project feature, the Federal cost participation in which shall be 70 percent of the total cost of the entire parallel protection system, and the local cost participation in which shall be 30 percent of the total cost of such entire parallel protection system: Provided further, That with $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed, pursuant to section 1135 of the Water Resources Development Act of 1986 as amended, to rehabilitate Onondage Creek and Harbor [; and, in addition, $73,681,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project] *and, in addition, $123,681,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, and the Secretary of the Army is directed to complete the actions necessary to award continuing contracts, which are not to be considered fully funded, and to award such contracts for the second phase construction for Locks and Dams 4 and 5 during the first quarter of fiscal year 1992; to continue construction of the McDade, Moss, Elm Grove, and Cecile Revetments in Pool 5 which were previously directed to be initiated in fiscal year 1991; to award continuing contracts in fiscal year 1992 for construction of the following features of the Red River Waterway Pool 4 and 5 which are not to be considered fully funded: Caroll Capout, Cupples Capout, Sunny Point Revetment and Dikes, Curtis Revetment, and Eagle Bend Revetment; and to continue land acquisition in the vicinity of Stumpy Lake/Swan Lake/Loggy Bayou Wildlife Management area to insure acquisition of manageable units and to develop such lands to maximize benefits for mitigation of fish and wildlife losses; and to initiate planning and acquisition of mitigation lands in the Bayou Bodcau area for the mitigation of fish and wildlife losses all as authorized by laws.*

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g–1), $353,437,000, to remain available until expended: *Provided*, That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist: *Provided further*, That the funds provided herein for operation and maintenance of Yazoo Basin Lakes shall be available for the maintenance of road and trail surfaces, alignments, widths, and drainage features: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $420,000 of the funds appropriated herein to continue preconstruction engineering and design studies on the Eastern Arkansas Region Comprehensive Study, Arkansas.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, [$1,547,855,000] *$1,537,265,000*, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662, may be derived from that fund, and of which $15,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601)[: *Provided*, That not to exceed $8,000,000 shall be available for obligation for national emergency preparedness programs: *Provided further*, That $2,000,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the development of recreation facilities at Sepulveda Dam, California: *Provided further*, That using $400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to plan and design a fifteen-acre swim lake and related recreational facilities at Hansen Dam, California: *Provided further*, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to dredge approximately 1,000 feet of the Ohio River along the Ashland, Kentucky, riverfront: *Provided further*, That using $1,800,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake the one-time repair and rehabilitation of the Flint, Michigan, project in order to restore the project to original project dimensions: *Provided further*, That $40,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the project for removal of silt and aquatic growth at Sauk Lake, Minnesota: *Provided further*, That $150,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, for the development of Gateway Park at the Lower Granite Lock and Dam project: *Provided further*, That with $8,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed on a one-time basis, to maintain access to existing State recognized port facilities on the Columbia and Snake Rivers between Bonneville Dam and Lewiston, Idaho, at a depth commensurate with the main navigation channel]: *Provided further, That with $4,825,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to modify the fish lift at the Cooper River, Charleston Harbor, South Carolina (Rediversion Project), authorized by the River and Harbor Act of 1968, Public Law 90–483, and to monitor operation of the fish lift for two years following such modifications: Provided further, That with $8,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed on a one-time basis, at full Federal expense, and without requirement of local sponsorship, to maintain navigation access to and berthing areas at all currently operating public and private commercial dock facilities associated with the Federal navigation project on the Columbia and Snake Rivers, from Bonneville Dam to Lewiston, Idaho, at a depth commensurate with the Federal navigation project, and that the Federal Government is exempted from any liability due to damages to public and private facilities including docks adjacent to the access channels and berthing areas resulting from this maintenance: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is authorized to provide water releases from Broken Bow Lake for the Mountain Fork trout fishery at no expense to the State of Oklahoma and under terms and conditions acceptable to the Secretary of the Army for a time period not to exceed two years from the date of enactment of this Act: Provided further*, That using $3,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to construct and maintain bank stabilization measures along the north bank of the Mississippi River Gulf Outlet from mile 49.9 through mile 56.1: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $1,500,000 of the funds appropriated herein to undertake measures needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River below Fort Peck Dam as authorized by section 33 of the Water Resources Development Act of 1988: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to allocate resources and take other steps necessary to complete an environmental impact statement and related documents by June of 1992 on a plan to reoperate Folsom Dam to provide greater flood control, using funds appropriated for that purpose in fiscal year 1991. This plan shall require a cost sharing agreement between local sponsors and the Secretary of the Interior based on the requirements of section 103 of the Water Resources Development Act of 1986, with the costs for foregone water and power sales to be computed on the basis of actual reductions in supply attributable to greater operations for flood control in that year.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $86,000,000, to remain available until expended.

None of the funds in this Act shall be used to identify or delineate any land as a "water of the United States" under the Federal Manual for Identifying and Delineating Jurisdictional Wetlands that was adopted in January 1989 or any subsequent manual not adopted in accordance with the requirements for notice and public comment of the rulemaking process of the Administrative Procedure Act nor shall any funds

be used for application or enforcement of the provisions of section 404 to activities undertaken on such lands.

None of the funds in this Act shall be used to finalize or implement the proposed regulations to amend the fee structure for the Corps of Engineers regulatory program which were published in Federal Register, Vol. 55, No. 197, Thursday, October 11, 1990.

REVOLVING FUND

None of the funds from the revolving fund established by the Act of July 27, 1953, chapter 245 (33 U.S.C. 576), may be used to reimburse other Department of Defense appropriations used to acquire Standard Army Automated Contracting System equipment for Corps of Engineers activities.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act, approved August 18, 1941, as amended, $15,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Engineer Automation Support Activity, the Humphreys Engineer Center Support Activity and the Water Resources Support Center, $142,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901–5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; not to exceed $5,000 for official reception and representation expenses; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 150 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

SEC. 101. Notwithstanding section 1001(b)(1) of the Water Resources Development Act of 1986, the project for navigation, Coosa River, Gadsden, Alabama, to Rome, Georgia, authorized by the River and Harbor Act of 1945, shall remain authorized to be carried out by the Secretary. The project described above shall not be authorized for construction after the last day of the 5-year period that begins on the date of enactment of this Act unless, during this period, funds have been obligated for construction (including planning and design) of the project.

SEC. 102. Public Law 99–88, 99 Stat. 293, 316, as modified by Public Law 99–349, 100 Stat. 710, 724, is amended by striking the last two sentences in the paragraph that authorizes acquisition of new buildings and appurtenant facilities for the U.S. Army Engineer District, Walla Walla, Washington.

[SEC. 103. The non-Federal share of the costs of preconstruction engineering and design of any water resources project constructed by the Secretary shall not be required to be paid prior to commencement of physical construction of the project.

[SEC. 104. Title III of Public Law 98–396 (98 Stat. 1369) is amended by inserting after section 303a the following new section:

["Sec. 303b. (1) The Secretary of the Army is authorized to convey to the Port of Camas-Washougal two parcels of land containing a total of approximately 45 acres and being a portion of an 82 acre tract of land acquired under the provisions of section 303a above and which is under the jurisdiction of the Department of the Army.

["(2) The conveyance authorized above shall be made in consideration of the fair market value of the land conveyed and shall be for any lawful purpose, including, without limitation, industrial, recreational and natural area development and the grantee may sell or otherwise dispose of such property without limitation.

["(3) The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary of the Army and the cost of such survey shall be borne by the Port of Camas-Washougal. The Secretary shall bear the costs of environmental review and appraisal.

["(4) The Secretary of the Army may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

["(5) The Secretary is also authorized to transfer, without monetary consideration, approximately 37 acres of predominantly wetlands comprising the remainder of the above mentioned 82 acre tract to the Department of the Interior, United States Fish and Wildlife Service, for inclusion in the Steigerwald Lake National Wildlife Refuge.".

[SEC. 105. The project for flood control, Guadalupe River, California, authorized by section 401(b) of the Water Resources Development Act of 1986 (Public Law 99–662), and the Energy and Water Development Appropriations Act of 1990 (Public Law 101–101), is modified to direct the Secretary of the Army to construct the project in accordance with the General Design Memorandum, dated January 1991 of the Sacramento District Engineer, and in accordance with the percentages specified in section 103 of the Water Resources Development Act of 1986, at a total cost of $134,300,000, with a first Federal cost of $67,300,000 and a first non-Federal cost of $67,000,000, further, if, after enactment of this Act and prior to award of the first construction contract by the Corps of Engineers, non-Federal interests initiate construction of the plan recommended herein, the Secretary shall credit such work toward the non-Federal share of the cost of the project.]

SEC. [106.] *103.* The present value of the capital costs to be prepaid by the city of Aberdeen, Washington, under the Wynoochee Lake project contract shall be $4,952,158.

SEC. [107.] *104.* The experimental water delivery program established under section 1302 of Public Law 98–181 is authorized to continue until the modifications to the Central and Southern Florida project authorized under section 104 of Public Law 101–229 are completed and implemented.

SEC. 105. The project for shoreline protection for Folly Beach, South Carolina, authorized by section 501(a) of the Water Resources Development Act of 1986 (Public Law 99–662; 100 Stat. 4136), is modified to authorize the Secretary to construct hurricane and storm protection measures based on the Charleston District Engineer's Post Authorization Change Report dated May 1991, at an estimated total initial cost of $15,283,000, with an estimated Federal cost of $12,990,000 and an estimated non-Federal cost of $2,293,000, and an annual cost of $647,000 for periodic beach nourishment over the life of the project, with an estimated annual Federal cost of $550,000 and an estimated non-Federal annual cost of $97,000.

SEC. 106. The Secretary of the Army, acting through the Chief of Engineers, is directed to maintain in caretaker status the navigational portion of the Fox River System in Wisconsin for a period of time extending one year from the date of enactment of this legislation. During this one-year period, the Corps of Engineers shall engage in good faith negotiations with the State of Wisconsin for the orderly transfer of ownership and operational duties of the Fox River System to the State of Wisconsin or other appropriate entity. No later than one year from the date of enactment of this legislation, the Corps of Engineers shall present to Congress the terms of a negotiated settlement reached between the Corps of Engineers and the State of Wisconsin. Such settlement shall include provisions for both the logistics and timing of the transfer, as well as a negotiated recommendation of monetary compensation to the State for repair and rehabilitation of damage and deterioration associated with all portions of the Fox River System which are being transferred to the State.

SEC. 107. None of the funds in this Act may be used to recommend closure or realignment of any United States Army Corps of Engineers civil works office, or by the United States Army Corps of Engineers to terminate, merge, or substantially reduce the work force of any such office prior to enactment by Congress of legislation authorizing such a policy.

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, [$13,789,000] *$13,204,000*: *Provided*, That, of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, [$553,209,000] *$564,409,000*, of which [$85,093,000] *$92,093,000* shall be available for transfer to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $117,266,000 shall be available for transfer to the Lower Colorado River Basin Develop-

ment Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further*, That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further*, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further*, That the funds contained in this Act for the Garrison Diversion Unit, North Dakota, shall be expended only in accordance with the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99–294): *Provided further*, That all costs of the safety of dams modification work at Coolidge Dam, San Carlos Irrigation Project, Arizona, performed under the authority of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506), as amended, are in addition to the amount authorized in section 5 of said Act: *Provided further*, That none of the funds appropriated in this Act shall be used to study or construct the Cliff Dam feature of the Central Arizona Project: *Provided further*, That Plan 6 features of the Central Arizona Project other than Cliff Dam, including (1) water rights and associated lands within the State of Arizona acquired by the Secretary of the Interior through purchase, lease, or exchange, for municipal and industrial purposes, not to exceed 30,000 acre feet; and, (2) such increments of flood control that may be found to be feasible by the Secretary of the Interior at Horseshoe and Bartlett Dams, in consultation and cooperation with the Secretary of the Army and using Corps of Engineers evaluation criteria, developed in conjunction with dam safety modifications and consistent with applicable environmental law, are hereby deemed to constitute a suitable alternative to Orme Dam within the meaning of the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.): *Provided further*, That of the funds appropriated herein, $900,000 shall be available to the Secretary of the Interior to complete the final design of the Shasta Dam, California, water release facilities for the purpose of selectively withdrawing water from Shasta Lake to control the temperature, turbidity, and dissolved oxygen content of water released from Shasta Dam: *Provided further, That with $7,000,000 appropriated herein, to remain available until expended, the Secretary of the Interior is directed to award continuing contracts which are not to be considered fully funded for the Sixth Water Aqueduct, Bonneville Unit, Central Utah Project: Provided further, That funds expended by the Central Utah Water Conservancy District in anticipation of passage of the Central Utah Project Completion Act, shall be credited toward the District's cost-sharing obligations required by the Completion Act.*

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $258,685,000: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund, and the amount for program activities which can be derived from the special fee account established pursuant to the Act of December 22, 1987 (16 U.S.C. 460l–6a, as amended), may be derived from that fund: *Provided further*, That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98–381: *Provided further*, That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same purpose and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further*, That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project, the costs of which shall be nonreimbursable.

LOAN PROGRAM

[For administrative expenses related to loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a–421d), and August 6, 1956, as amended (43 U.S.C. 422a–422l), $890,000: *Provided*, That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from that fund.]

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct loans authorized by the Act of August 6, 1956, as amended (43 U.S.C. 422a–422l), as follows: cost of direct loans $2,000,000, to remain available until expended: Provided, That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $3,240,000: Provided further, That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from that fund.

In addition, for administrative expenses necessary to carry out the direct loan programs, $890,000.

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $53,745,000, of which $800,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund.

WORKING CAPITAL FUND

For capital equipment and facilities, $5,900,000, to remain available until expended, as authorized by the Act of November 1, 1985, (43 U.S.C. 1472).

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or special fee account are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) or the Act of December 22, 1987 (16 U.S.C. 460l–6a, as amended), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the reclamation fund.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 16 passenger motor vehicles for replacement only; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; services as authorized by 5 U.S.C. 3109, in total not to exceed $500,000; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461–467) and June 27, 1960 (16 U.S.C. 469): *Provided*, That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses", amounts provided for plan formulation investigations under the head "General Investigations", and amounts provided for science and technology under the head "Construction Program".

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided*, That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of 31 U.S.C. 1341.

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

None of the funds made available by this or any other Act shall be used by the Bureau of Reclamation for contracts for surveying and mapping services unless such contracts for which a solicitation is issued after the date of this Act are awarded in accordance with title IX of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 541 et seq.).

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities or other facilities or equipment damaged, rendered inoperable, or destroyed by fire, flood, storm, drought, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specificially made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 202. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided*, That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 204. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. The Bureau of Reclamation may invite non-Federal entities involved in cost sharing arrangements for the development of water projects to participate in the contracting processes without invoking the provision of the Federal Advisory Committee Act, Public Law 92-463 (3 U.S.C.A. Appendix 2 (1985 Supp.)).

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 35, of which 23 are for replacement only), [$2,854,053,000] *$2,940,916,000*, to remain available until expended [:-*Provided*, That the $7,500,000 provided in the Energy and Water Development Appropriations Act, Fiscal Year 1991, (Public Law 101-514) available only for the modification and operation of the Power Burst Facility at the Idaho National Engineering Laboratory, shall be available for the Boron Neutron Capture Therapy Research Program,] *of which $20,000,000 is for a Technology Research Program to be established within the Office of Energy Research which shall provide funds to the national laboratories of the Department of Energy for long-range fundamental technology research of interest to American industry and for co-funding cooperative research and development agreement (CRADAs) and, in considering proposals for funding, the Department shall take a broad view of projects that would benefit both the Department's traditional mission and the economy of the United States; and, of which $20,000,000 shall be available only for the Institute for Micromanufacturing, Louisiana Tech University and the Ambulatory Research and Education Building, Oregon Health Sciences University.*

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity to provide enrichment services; purchase of passenger motor vehicles (not to exceed 28, of which 25 are for replacement only), [$1,337,600,000] *$1,367,600,000*, to remain available until expended, *of which $193,600,000 shall be for the Atomic Vapor Laser Isotope Separation program including $20,000,000 for procurement of a commercial deployment contractor to be on line by October 1, 1991 and $15,000,000 for uranium processing and integration of Atomic Vapor Laser Isotope Separation into the fuel cycle*: *Provided*, That revenues received by the Department for the enrichment of uranium and estimated to total $1,547,000,000, in fiscal year 1992 shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1992 so as to result in a final fiscal year 1992 appropriation estimated at not more than $0.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 7 for replacement only) [$1,405,489,000, to remain available until expended, of which $10,000,000 is for the design of project 92-G-302, Femilab main injector] *$1,507,489,000, to remain available until expended.*

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, [$305,071,000] *$295,071,000*, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: *Provided*, That of the amount herein appropriated, within available funds, not to exceed [$3,000,000] *$5,000,000* may be provided to the State of Nevada, for the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended [, of which $100,000 shall be available for the State Legislature's oversight activities:] *Provided further*, That of the amount herein appropriated, not more than [$4,000,000] *$5,000,000* may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further*, That the distribution of the [funding herein provided between] *funds herein provided among* the affected units of local government shall be determined by the Department of Energy (DOE) and made available to the State and affected units of local government by direct payment: *Provided further*, That within 90 days of the completion of each Federal fiscal year, each entity shall provide certification to the DOE, that all funds expended from such direct payment moneys have been expended for activities as defined in Public Law 97-425, as amended. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: *Provided further*, That none of the funds herein appropriated may be used for litigation expenses: *Provided further*, That of the amount appropriated herein, up to [$3,000,000] *$5,000,000* shall be available for in-

frastructure studies and other research and development work to be carried out by the University of Nevada, Las Vegas (UNLV) and the University of Nevada, Reno. Funding to the universities will be administered by the DOE through a cooperative agreement.

In paying the amounts determined to be appropriate as a result of the decision in Consolidated Edison Company of New York v. Department of Energy 870 F.2d 694 (D.C. Cir. 1989), the Department of Energy shall pay interest at a rate to be determined by the Secretary of the Treasury and calculated from the date the amounts were deposited into the Nuclear Waste Fund. [Such payments may be made by credits to future utility payments into the fund] *The payment of the amounts and interest may be made by giving credit for future utility payments into the Nuclear Waste Fund, using funds from the Nuclear Waste Fund without further appropriation, or both, as determined by the Secretary of Energy.*

ISOTOPE PRODUCTION AND DISTRIBUTION PROGRAM FUND

Revenues received hereafter from the disposition of isotopes and related services shall be credited to this account, to be available for carrying out the purposes of the isotope production and distribution program without further appropriation: *Provided,* That such revenues and all funds provided under this head in Public Law 101–101 shall remain available until expended: *Provided further,* That if at any time the amounts available to the fund are insufficient to enable the Department of Energy to discharge its responsibilities with respect to isotope production and distribution, the Secretary may borrow from amounts available in the Treasury, such sums as are necessary up to a maximum of $8,500,000, to remain available until expended.

[ATOMIC ENERGY DEFENSE ACTIVITIES

[For expenses of the Department of Energy activities, including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95–91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 236 for replacement only including 13 police-type vehicles, and purchase of 4 rotary-wing aircraft, for replacement only), $11,768,500,000, to remain available until expended, of which $100,000,000 shall be for design of new production reactor capacity, to become available for obligation 60 days after issuance of the Record of Decision on the Environmental Impact Statement on New Production Reactor Capacity; and of which $20,000,000 shall be made available to the State of New Mexico to assist the State and its affected units of local government in mitigating the environmental, social, economic, and other impacts resulting from the Waste Isolation Pilot Plant: *Provided,* That a portion of the $20,000,000 received by the State of New Mexico may be provided directly to the affected units of local government in the vicinity of, and along the transportation routes to, the Waste Isolation Pilot Plant based on a State assessment of needs, conducted in consultation with its affected units of local government, and the demonstration of impacts: *Provided further,* That the $20,000,000 shall be provided upon initiation of the performance assessment phase at the Waste Isolation Pilot Plant site.]

ATOMIC ENERGY DEFENSE ACTIVITIES

RESEARCH, DEVELOPMENT AND TESTING

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense research, development and testing activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion and the purchase of passenger motor vehicles (not to exceed 87 for replacement only), $1,976,650,000, to remain available until expended.

PRODUCTION AND SURVEILLANCE

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense production and surevillance activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et. seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion and the purchase of passenger motor vehicles (not to exceed 9 for replacement only), $2,590,478,000, to remain available until expended.

MATERIALS PRODUCTION

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense materials production activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et. seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion and the purchase of passenger motor vehicles (not to exceed 31 for replacement only), $1,891,900,000, to remain available until expended.

NEW PRODUCTION REACTOR

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense new production reactor activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et. seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $483,000,000, to remain available until expended, of which $100,000,000 shall be for design of new production reactor capacity, to become available for obligation sixty days after issuance of the Record of Decision on the Environmental Impact Statement on New Production Reactor Capacity.

NAVAL REACTORS

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense naval reactors activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et. seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion and the purchase of passenger motor vehicles (not to exceed 11 for replacement only), $818,000,000 to remain available until expended.

ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et. seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion and the purchase of passenger motor vehicles (not to exceed 70 for replacement only), $3,640,372,000, to remain available until expended, of which $20,000,000 shall be made available to the State of New Mexico to assist the State and its affected units of local government in mitigating the environmental, social, economic, and other impacts resulting from the Waste Isolation Pilot Plant: Povided, That a portion of the $20,000,000 received by the State of New Mexico may be provided directly to the affected units of local government in the vicinity of, and along the transportation routes to, the Waste Isolation Pilot Plant based on a State assessment of needs, conducted in consultation with its affected units of local government, and the demonstration of impacts: Provided further, That the $20,000,000 shall be provided upon initiation of the performance assessment phase at the Waste Isolation Pilot Plant site.

OTHER DEFENSE PROGRAMS

For expenses of the Department of Energy activities, including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense, other defense program activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion and the purchase of passenger motor vehicles (not to exceed 28 for replacement only), $403,600,000 to remain available until expended.

[DEPARTMENTAL ADMINISTRATION]

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95–91), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000) [$414,976,000] *$415,976,000,* to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided,* That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further,* That moneys received by the Department for miscellaneous revenues estimated to total $284,352,000 in fiscal year 1992 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1992 so as to result in a final fiscal year 1992 appropriation estimated at not more than [$130,624,000] *$131,624,000.*

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $31,431,000, to remain available until expended.

[POWER MARKETING ADMINISTRATIONS]

POWER MARKETING ADMINISTRATIONS

Operation and Maintenance, Alaska Power Administration

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $3,218,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for the purchase, maintenance and operation of two rotary-wing aircraft for replacement only; and for official reception and representation expenses in an amount not to exceed $3,000.

During fiscal year 1992, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $23,869,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $28,464,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $8,820,000 in reimbursements, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, [$306,478,000] *$326,478,000*, to remain available until expended, of which [$278,173,000] *$298,423,000* shall be derived from the Department of the Interior Reclamation fund; in addition, the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $5,465,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (Public Law 95-91), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $3,000); $141,071,000, to remain available until expended: *Provided*, That hereafter and notwithstanding any other provision of law, not to exceed $141,071,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1992, shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1992, so as to result in a final fiscal year 1992 appropriation estimated at not more than $0.

The Federal Energy Regulatory Commission is authorized pursuant to section 4 of the Natural Gas Act to allow recovery, in advance, of expenses by natural-gas companies for research, development and demonstration activities by the Gas Research Institute for projects on the use of natural gas in motor vehicles and on the use of natural gas to control emissions from the combustion of other fuels: Provided, That the Commission finds that the benefits, including environmentcl benefits, to both existing and future ratepayers resulting from such activities exceed all direct costs to both existing and future ratepayers.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

SEC. 301. Appropriations for the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

(TRANSFER OF FUNDS)

SEC. 302. Not to exceed 5 per centum of any appropriation made available for the current fiscal year for Department of Energy activities funded in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 303. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

MINORITY PARTICIPATION IN THE SUPERCONDUCTING SUPER COLLIDER

SEC. 304. (a) FEDERAL FUNDING.—The Secretary of Energy shall, to the fullest extent possible, ensure that at least 10 per centum of Federal funding for the development, construction, and operation of the Superconducting Super Collider be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

(b) OTHER PARTICIPATION.—The Secretary of Energy shall, to the fullest extent possible, ensure significant participation, in addition to that described in subsection (a), in the development, construction, and operation of the Superconducting Super Collider by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))) and economically disadvantaged women.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, [$170,000,000] *$190,000,000*.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, $11,500,000, to remain available until expended.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $300,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $475,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $510,000, of which $210,000 shall be available for the local sponsor's share of the cost of the United States Army Corps of Engineers Anacostia River and Tributaries study in Maryland and the District of Co-

lumbia or other activities associated with the restoration of the Anacostia River.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $508,810,000, to remain available until expended, of which $19,962,000 shall be derived from the Nuclear Waste Fund: *Provided*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $488,848,000 in fiscal year 1992 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1992 from licensing fees, inspection services, and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1992 appropriation estimated at not more than $19,962,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by section 3109 of title 5, United States Code, $3,690,000, to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided*, That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further*, That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1992 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1992 appropriation estimated at not more than $0.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, $3,294,000, to be transferred from the Nuclear Waste Fund and to remain available until expended.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $284,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $310,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $135,000,000, to remain available until expended: *Provided*, That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 503. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reduction", or the provision of Public Law 99-177 or Public Law 100-119 unless such report expressly provides otherwise.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 505. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

SEC. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 507. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

[SEC. 508. None of the funds provided herein shall be used to implement the provisions of Public Law 101-576.]

This Act may be cited as the "Energy and Water Development Appropriations Act, 1992".

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, and Members of the Senate, I have just filed a second cloture motion on the crime bill which, unless a unanimous-consent agreement is entered to the contrary, will ripen for a vote 1 hour after the Senate convenes on Thursday morning.

A previous cloture motion will ripen for a vote 1 hour after the Senate convenes tomorrow.

In the interim, in view of our inability to move forward on the crime bill, I have exercised my authority to proceed to the energy and water appropriations bill, that action not requiring unanimous consent. I did so following consultation with the Republican leader, as provided under the previous agreement granting me that authority.

The deliberations on the energy and water appropriations bill will commence at approximately 7:45. The managers will be here ready to proceed, and I thank them for their willingness to do so on relatively short notice. The Senate will be in session this evening considering that legislation.

Tomorrow morning, at a time yet to be determined because we have not yet determined what time the Senate will reconvene tomorrow morning, there will be a vote on cloture on the crime bill, and that vote will determine whether or not Senators want to enact a crime bill or not. Those who are opposed to the bill will, of course, cast their votes in the negative. Those who want to proceed to complete action on the bill will cast their votes in the affirmative.

If cloture is voted by the Senate tomorrow morning, and we have not by then completed action on the energy and water appropriations bill, there will be two options: Either to continue on the crime bill until completion and

then take up the energy and water appropriations bill, or to do the reverse. I will not make that decision until tomorrow morning, and following consultation with the managers of both bills and the distinguished Republican leader and the Republican managers of both bills.

If cloture is not invoked on the crime bill tomorrow, the Senate will continue with consideration of the energy and water appropriations bill—if that is not completed this evening—throughout the day tomorrow, and then a second cloture vote will follow on the crime bill on Thursday morning.

I am disappointed at our inability to complete action on the crime bill. I understand the rights of those Senators who are opposed to the bill, for whatever reason, to exercise their rights under the rules to seek to prevent action on the bill. But it seems to me that given the importance of the legislation and the diligent efforts that have been made by the managers, that proceeding in this fashion is the manner best calculated to permit us to reach a decision, one way or the other, on the crime bill.

Either we are for a crime bill and we will vote cloture and pass a bill, or we are not for a crime bill and we will not invoke cloture and we will be finished with crime legislation for this Congress.

In the meantime, so as not to further delay the Senate—we have been in quorum calls now for most of the day, and opponents of the crime bill have been able to prevent proceeding with dispatch on that bill—it seems to me it would be the best use of the Senate's time to devote our efforts this evening to the energy and water appropriations bill, and then proceed as I have just suggested.

Mr. WIRTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 2622

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed at any time to the consideration of H.R. 2622, the Treasury-Postal appropriations bill, notwithstanding the provisions of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 46 U.S.C. 1295(b), as amended by Public Law 101–595, appoints the following Senators to the Board of Visitors of the U.S. Merchant Marine Academy: the Senator from South Carolina [Mr. HOLLINGS], ex officio; the Senator from Louisiana [Mr. BREAUX], from the Committee on Commerce, Science, and Transportation; the Senator from Mississippi [Mr. LOTT], from the Committee on Commerce, Science, and Transportation; and the Senator from Florida [Mr. MACK], at large.

The Chair, on behalf of the Vice President, pursuant to 14 U.S.C. 194(a), as amended by Public Law 101–595, appoints the following Senators to the Board of Visitors of the U.S. Coast Guard Academy: the Senator from South Carolina [Mr. HOLLINGS], from the Committee on Commerce, Science, and Transportation; the Senator from Oregon [Mr. PACKWOOD], from the Committee on Commerce, Science, and Transportation; and the Senator from California [Mr. SEYMOUR], at large.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from West Virginia, the distinguished President pro tempore, is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

Mr. President, H.R. 2427, the Energy and Water Development Appropriations Bill for fiscal year 1992, provides funding for the critical programs of the Department of Energy, the civil works programs of the U.S. Army Corps of Engineers, the Bureau of Reclamation in the Department of the Interior, and several independent agencies, including the Nuclear Regulatory Commission, the Tennessee Valley Authority, and the Appalachian Regional Commission.

The bill as recommended by the committee provides total obligational authority of $21,984,482,000. This amount is $374,654,000 above the President's request and $489,483,000 more than the House-passed bill. The bill as recommended is within the subcommittee's 602(b) allocations for both budget authority and outlays.

I commend Senator JOHNSTON, the chairman of the subcommittee, and Senator HATFIELD, who is the ranking minority member of both the subcommittee and the full committee, for their excellent work in accommodating the priorities of the Senate within the constraints of the budget allocation. I thank all members of the committee for their cooperation on this bill.

Mr. President, I would also like to compliment the majority and minority staff for their months of hard work in connection with this bill: Proctor Jones, David Gwaltney, Gloria Butland, Mark Walker, and Dorothy Pastis.

I urge my colleagues to support this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I am pleased to present to the Senate, the energy and water appropriations bill for the fiscal year 1992.

This bill, H.R. 2427, passed the House of Representatives on May 29, 1991. The Subcommittee on Energy and Water Development marked up this bill on June 11 and the full Committee on Appropriations marked up and reported this bill on June 12, 1991. We marked up this bill as quickly as we could after receiving the bill from the House and receiving our 602(b) allocation. I want to assure the Members of the Senate that we have done the best we could to present a fair and balanced recommendation to the Senate in light of tough budgetary constraints.

Before summarizing the principal aspects of this year's appropriation bill, I want to take a moment to especially thank the chairman of our full Committee on Appropriations, the distinguished President pro tempore and our leader for all the hard work and for his understanding of the difficulties confronting us in moving these appropriation bills through the subcommittee, the full committee and now to the Senate. I commend the Chairman in leading us to this point.

Mr. President, as usual, I say each year—and I mean it more each year—that the cooperation, the teamwork, the leadership of the distinguished Senator from Oregon, Senator HATFIELD, who is a former chairman of the full committee and the ranking minority member of the committee, and the ranking minority member of the full committee, has been invaluable; he is an outstanding ranking minority member as he was an outstanding chairman,

and I value his friendship as well as his leadership in these matters.

PURPOSE OF THE BILL

The purpose of this bill is to provide appropriations for the fiscal year 1992 beginning October 1, 1991, and ending September 30, 1992, for energy and water development, and for other related purposes.

It supplies funds for water resources development programs and related activities of the Department of the Army, Civil Functions—U.S. Army Corps of Engineers' Civil Works Program in title I; for the Department of the Interior's Bureau of Reclamation in title II; for the Department of Energy's energy research activities—except for fossil fuel programs and certain conservation and regulatory functions—including atomic energy defense activities in title III; and for related independent agencies and commissions, including the Appalachian Regional Commission and Appalachian regional development programs, the Nuclear Regulatory Commission, and the Tennessee Valley Authority in title IV.

SUMMARY OF RECOMMENDATIONS

Mr. President, the fiscal year 1992 budget estimates for the bill total $21,609,828,000 in new budget obligational authority. The recommendation of the committee provides $21,984,482,000. This amount is $374.6 million over the President's budget estimate and $489.4 million more than the House passed bill.

BILL HIGHLIGHTS

Atomic Energy Defense Activities

Research, Development, and Testing	$1,976,650,000
Production and Surveillance	2,590,478,000
Materials Production	1,891,900,000
New Production Reactors	483,000,000
Environmental Restoration and Waste Management (Defense)	3,640,382,000

ENERGY SUPPLY, RESEARCH, AND DEVELOPMENT

The bill recommended by the committee provides a total of $2,940,916,000 for energy supply, research, development and demonstration programs including:

Solar energy	158,866,000
Environmental restoration and waste management (nondefense)	602,495,000
Nuclear fission R&D	346,658,000
Magnetic fusion	337,100,000
Basic energy sciences	737,700,000
Biological and environmental health	326,460,000

GENERAL SCIENCE AND RESEARCH

The committee recommendation would provide $1,507,489,000 for High Energy Physics and Nuclear Physics. Major programs are:

High energyphysics research	637,999,000
Nuclear physics	354,390,000
Superconducting super collider	508,700,000

The major recommendations are as follows: First of all, the restoration of $75 million of the $100 million reduction made in the superconducting supercollidor for a total appropriation of $508,700,000 for the SSC. This is a reduction of $25 million from the President's budget and $75 million above the House. We believe these are sufficient funds to keep this on schedule.

The main injector at Fermi Lab is increased by $25 million. The House allowed $10 million for design, we provided $25 million without limitation.

On the atomic vapor laser isotope separation uranium enrichment program, the AVLIS program, we restore $30 million of the $50 million House reduction.

We provided for 14 new construction starts for water resource development. The House had no new starts. The total estimated Federal cost for these new starts is $291 million—not $291 million in this bill—that is the total cost.

INDEPENDENT AGENCIES

Also recommended in the bill is $502,706,000 for various regulatory and independent agencies of the Federal Government. Major programs include:

Appalachian Regional Commission	$190,000,000
Federal Energy Regulatory Commission	141,071,000
Nuclear Regulatory Commission	512,500,000
Tennessee Valley Authority	135,000,000

Approximately $160 million additional is allocated for several ongoing high priority construction projects to maintain the construction schedules and avoid further costly stretch-out and delays, such as in the Garrison project in North Dakota, Kissimmee in Florida, O'Hare in Illinois, Red River navigation, Tug Fork in Kentucky and West Virginia, and small projects continuing authority.

Two hundred million dollars more is provided than in the House for RDT&E at Lawrence Livermore and Los Alamos and Sandia, New Mexico. We were fortunate in getting this additional money from 050, which is the defense subcommittee, for our subcommittee, and this to be used at the national labs as indicated for very high priority projects.

Approximately $80 million has been allocated for miscellaneous energy R&D, general science, and basic research programs projects.

We have language here limiting the use of the Corps of Engineers regulatory funds on the use of jurisdictional wetlands manual under section 404 to determine wetlands unless such manual has been developed and issued under the public comment and notice rulemaking of the Administrative Procedures Act.

If I may have your quick attention on this, because it is likely to come up in further discussion. As all of you—as many of you know, the Corps of Engineers along with the EPA and Fish and Wildlife Service came up with a new manual in 1989 for section 404. Now, the new manual fundamentally changed the rules for determining what was a wetland and how you go about doing it.

The main change was it changed from discretionary to mandatory the application of the test to determine what was a wetland. One of the tests was that you have water some, I believe, 18 inches below the surface for a period of 7 days between the spring and the fall. Now, when that was advisory only then the Corps of Engineers had a lot of discretion as to how to apply that.

When it is mandatory, it brings in literally millions of acres as wetland. The practical effect of this is, first, that people are being prosecuted for violation of wetlands regulations when they did not know about the status as wetlands; second, it is taking private property for public use with no notice, no hearing.

Just all of a sudden, as one fellow down in Louisiana told me, he had ten acres that was worth $15,000 an acre, assessed as such for tax purposes. One day he finds out the Corps has designated it as wetlands. He said now that property is worth zero.

Now, this 1989 manual was adopted without public hearing or comment. All this provision does is it says that they may not enforce the 1989 manual unless adopted pursuant to the Administrative Procedures Act. So they have a number of choices that they can do.

Either they can go back and re-institute the 1989 manual pursuant to the APA, or they can come up with changes to that pursuant to the APA, or they could reauthorize the Water Resources Act. Any of those things would qualify and put this back in.

Unless and until that is done, then the old rules that were in operation prior to 1989—I think they are 1972 rules—they would still be in effect.

Now, practically, if they want to comply with public notice and hearing and the right of all these property owners to be heard, they can do that even before the fiscal year starts, so that there would be absolutely no delay, none. The APA provides that rules can go into effect within 30 days after promulgation of those rules. So if they wanted to, on July 1 they can put out the rules to become effective 30 days later, giving the right to comment.

You do not even have the right, necessarily the right to public hearing, so long as you give the right to comment. That is all we are asking, is the right to be heard. And I think in hearing the complaints of these farmers and these people who want to plant trees, these people who want to build a house on land in Saint Tammany Parish in Louisiana that is 16 feet above flood plain, not subject to flooding, already developed, street lights, all of that, all they

have to do is be given a right to be heard and that is all that this provision does.

Mr. President, this is a brief summary of the major funding for the major agencies contained in the bill. I hope that we can handle this measure on the floor in an expeditious manner so we can get to conference with the House of Representatives as soon as possible.

Mr. President, we have spent every penny that was available to us under a very tight 602(b) allocation and there just is not any more money. I know Senators have great projects which they wish to fund, and I have a lot that I want to fund, but there simply is not any money for it because it has all been spent.

So, with that, Mr. President, I defer to the distinguished ranking minority member, Senator HATFIELD, at this point.

Mr. HATFIELD. Mr. President, I thank the chairman of the committee. As a part of the working relationship that distinguishes this committee, his leadership and that of the chairman of the full committee, Senator BYRD. Senator BYRD has that rather daunting task of getting 13 appropriations bills out here on the floor after they have passed the House of Representatives, and not only get them out here on the floor but get them passed, get them to conference, and then get them down to the White House for the President's signature. That is indeed a monumental task and I know that we are here tonight in part because Senator BYRD has given that kind of leadership on the full committee, and Senator JOHNSTON as the chairman of the subcommittee has certainly reflected that same determination to get our business completed in an expeditious manner and in due time.

Mr. President, I want to thank Senator JOHNSTON for his exceptional work in bringing this bill before the Senate in such a timely, organized, and professional fashion. The Senate received the bill from the House on May 29, and the fact that we are already on the floor with such a clearly balanced product is a testament to our subcommittee chairman's organizational and leadership skills. Senator JOHNSTON has made the development of the bill a bipartisan process, and has worked hard to accommodate Members on both sides of the aisle.

I also want to thank the chairman of the full Appropriations Committee, Senator BYRD, for his work on the bill, as well. Through his leadership and dedication, I am confident that the Senate will have all 13 appropriations bills passed before the end of the fiscal year. From my own experiences as chairman of the committee, I know this to be a daunting task, but know that Chairman BYRD will accomplish it in his usual effortless style.

While Senator JOHNSTON has already given an excellent summary of the contents of the committee's fiscal year 1992 bill, I want to emphasize a few points of my own. First, we have tried to accommodate nearly all of the administration's objections to the House-passed bill.

Mr. President, I would like to make one or two brief observations for the simple fact that we may act on a bill and everyone knows unless the President is willing to agree to it there will be no legislation or no appropriation unless that veto or that disagreement is resolved.

This committee received a message from the White House signed by the Director of OMB, Mr. Richard Darman, on June 10, 1991. He noted in that letter, Mr. President, that the President of the United States, the White House, had four objections to the House-passed bill of energy and water. These four objections were the House's $100 million reduction from the budget request for the superconducting super collider [SSC], the $33.5 million cut in the funding for the Fermilab main injector for high energy physics research, the provisions barring the use of funds in the bill for the implementation of the Chief Financial Officers Act, and the restriction of appropriated funds to conduct certain studies of the pricing of hydroelectric power.

I am pleased to report to my colleagues that we have addressed 3 out of 4 of these concerns. We have recommended funding the SSC at $508.7 million—$75 million over the House, the Fermilab main injector at $25 million—$15 million more than the House, and we have struck the House language barring the implementation of the Chief Financial Officers Act.

I am pleased to say, however, that we have not deleted the restriction on studying the pricing of hydroelectric power, and it is my hope we will not do so at any time soon, even though that stands in direct contradiction to the White House's pleasure. I think the White House will be willing to settle on three of the four objections. After all, there has to be some kind of compromise in these differences that exist from time to time between the White House and the Congress, or a committee of the Congress.

While this bill is important to every Member of this body, and provides essential funding for many programs of national significance, I want to mention that there is a very specific regional interest that I have, coming from the Pacific Northwest, because this bill funds the operations of the Army Corps of Engineers and the Bureau of Reclamation and the Bonneville Power Administration, three agencies which are playing a critical role in the fight to save at least three runs of Columbia River Basin salmon from extinction.

The bill we have brought to the floor provides direction to these three agencies on their respective roles in this effort, as well as over $40 million for necessary actions, both to help the fish and to ease the burden of this situation on our region's economy.

While it may be nearly a year before the National Marine Fisheries Service makes a final listing decision on the Snake River sockeye, fall chinook, and the spring/summer chinook salmon, we are not waiting around, wringing our hands and complaining about the Endangered Species Act. No. We are working with the four Governors, those of Oregon, Washington, Idaho, and Montana, the Federal agencies, and other interested parties, and are developing a recovery strategy that can be implemented now, before a final listing decision is made. The enactment of this appropriations bill is crucial to our efforts to save the salmon and our unique way of life in the Pacific Northwest.

With that said, Mr. President, I would like to remind my colleagues that this bill is right up against our 602(b) allocation of $22.020 billion—$11.98 billion of that being function 050, defense, and $10.040 billion being discretionary—and that any amendments offered today will need to have offsets.

Mr. President, I once again express my deep gratitude for the excellent leadership of the chairman of the subcommittee, the Senator from Louisiana [Mr. JOHNSTON].

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Oregon for his kind remarks. I ask unanimous consent that the committee amendments be agreed to en bloc, with the exception of the committee amendment appearing on page 26, line 19 down through line 8 on page 27; and the committee amendment on page 51, line 10 through line 16; and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall have been considered to have been waived by agreeing to this request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

The committee amendments were agreed to en bloc except the committee amendment appearing on page 26, line 19 through line 8 on page 27; and the committee amendment on page 51, line 10 through line 16.

AMENDMENT NO. 570

(Purpose: Substitute for Committee amendment on Army Corps of Engineers section 404 wetlands Regulatory Program)

Mr. JOHNSTON. Mr. President, the two excepted amendments to those that were not agreed to en bloc were, first, a section 404 permit regulatory program amendment.

Mr. President, we have a separate amendment on that which I send to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 570.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter beginning on page 26, line 19 through line 8 on page 27 insert the following:

None of the funds in this Act shall be used to identify or delineate any land as a "water of the United States" under the Federal Manual for Identifying and Delineating Jurisdictional Wetlands that was adopted in January 1989 (1989 Manual) or any subsequent manual not adopted in accordance with the requirements for notice and public comment of the rule-making process of the Administrative Procedure Act.

In addition, regarding Corps of Engineers ongoing enforcement actions and permit application involving lands which the Corps or EPA has delineated as waters of the United States under the 1989 Manual, and which have not yet been completed on the date of enactment of this Act, the landowner or permit applicant shall have the option to elect a new delineation under the Corps 1987 Wetland Delineation Manual, or completion of the permit process or enforcement action based on the 1989 Manual delineation, unless the Corps of Engineers determines, after investigation and consultation with other appropriate parties, including the landowner or permit applicant, that the delineation would be substantially the same under either the 1987 or the 1989 Manual.

None of the funds in this Act shall be used to finalize or implement the proposed regulations to amend the fee structure for the Corps of Engineers regulatory program which were published in Federal Register, Vol. 55, No. 197, Thursday, October 11, 1990.

Mr. JOHNSTON. Mr. President, this amendment, which I have submitted, has been worked out in consultation with the majority leader, the Corps of Engineers, and others who are interested in this program.

What we did in committee, Mr. President, is provide that with respect to the section 404 Wetlands Permit Program, any regulations that were adopted under that program that did not comply with the Administrative Procedures Act could not be enforced with money provided under this bill.

What that practically means is that the regulations, or the manual, as it is called, which not only defined wetlands, but set forth the procedure under which the Corps of Engineers, EPA, and the Fish and Wildlife Service regulate wetlands—that the manuals must be adopted in accordance with the Administrative Procedures Act in order to be enforced.

In 1987, a manual was adopted setting forth definitions of what was a wetland and what was not, and providing in effect for some discretion in the administration of that program. That 1987 manual was adopted in accordance with the Administrative Procedure Act, which is to say, public hearings, notice, the right to make comments, the right in effect for citizens to be heard.

In 1989, another manual was adopted. This manual made tremendous changes in the wetlands program. It defined, for example, a wetland as being that which, in most years, for 7 days was wet at a level 18 inches below the ground.

When you consider the amount of wetness, particularly in my State, virtually the entire State is wet for 7 days during the growing season 18 inches below the ground. As a matter of fact, you could probably make that definition by saying at ground level, if only 7 days are being dealt with.

Moreover, the Corps of Engineers was deprived of the discretion which lay with the Corps of Engineers under that program. The practical effect was to bring in an amount of land nationwide consisting of 60 million acres, that figure being given by the head of the Fish and Wildlife Service in testimony before the House.

You can imagine the effect of including another 60 million acres of land which, in many cases, was high and dry or considered to be high and dry, wherein the Corps of Engineers had absolutely no discretion, where the value of property on the day before it was declared a wetland might be thousands and thousands of dollars per acre, and on the day after it was declared a wetland it would be worth zero because it could not be developed. Those kinds of situations pertained all over my State.

Not only was there the loss of property value, but many people who had done things innocently in wetland areas—whether it was forming a crawfish pond or farming or filling or dredging, or whatever—were being prosecuted criminally under a set of rules as to which they had no notice; they had no opportunity to be heard. No one had an opportunity to be heard.

What we said under our original amendment was that that 1989 manual, not adopted in accordance with the Administrative Procedures Act, could no longer be enforced. Since that time, we had meetings with the distinguished majority leader and his staff from the Environment and Public Works Committee who pointed out that there were ongoing some 5,000 permit applications nationwide. And, as the majority leader said, it was his desire also to have these rules adopted in accordance with the Administrative Procedures Act. Everyone thought we ought to have notice, and we ought to have the right to be heard, but 5,000 applications were pending under the 1989 manual.

We therefore came up with substitute language which has just been submitted, and which states that, for ongoing enforcement actions and permit applications uncompleted on the date of enactment of this provision, but which were based on the 1989 manual, the corps would provide the landowners the option to elect a new delineation based on the corps' 1987 manual, or completion of the action based on the 1989 delineation manual unless the corps were to consult with the landowner and determine that the delineation would be substantially the same under either the 1987 or 1989 manual.

In addition, the corps would be prohibited from implementing the 1990 proposal to increase the fees imposed on the public through the 404 program.

That fee increase was an increase, if I recall, from $50 to $500, to apply, which might be for only one lot.

As a practical matter, Mr. President, the Administrative Procedures Act provides for 30-days' notice so that they could comply with the law by submitting tomorrow a notice, and the 30 days provided under the Administrative Procedures Act would run and be over with well before the fiscal year.

As a practical matter, I think it would take longer than the 30 days stipulated by law. But we are not talking about a half a year or a year. We are talking about a matter of, well, it depends on how long they would want to take. But however long it is, it is a fundamental right. When you are dealing with not just hundreds of millions, but billions of dollars' worth of property value and the loss of freedom, indeed the criminal prosecution of people under a manual, somebody ought to have the right to be heard under those regulations. And that is what this amendment does. I believe it has been thoroughly discussed and gone over. So I yield the floor at this point, Mr. President.

Mr. SIMPSON. Mr. President, I want to express my full support for the amendment offered by the senior Senator from Louisiana, Senator JOHNSTON, regarding the future implementation of the 1989 Federal Delineation and Jurisdictional Wetlands Manual.

It is so unfortunate and wholly inappropriate that the Environmental Protection Agency and the Corps of Engineers have been unwilling, up to this point, to subject this manual and other important wetland memorandums and directives to the normal public comment process which is provided under the Administrative Procedures Act. Like all other major initiatives to protect our Nation's natural resources, the wetlands program is highly controversial and rarely satisfactory to a clear majority of concerned interests. That is to be expected. But it was completely unfair and very improper for these agencies to deny the American public their normal opportunity for scrutiny and comment.

The delineation manual is not simply a scientific report. It contains much

science, but it also sets policy. Even if that was not its original purpose, it cannnot be disputed that it has been a statement of policy since its publication in 1989. Major initiatives and directives have been generated from this delineation and jurisdictional manual. Significant changes in the enforcement of the wetlands program directly resulted from the publication of this manual. I also believe that the two memorandums of agreement regarding enforcement and mitigation of wetlands—which have not been subject to the normal public comment period—should certainly be. It is the public's right.

This amendment is not a congressional maneuver to delay or sidetrack protection of our Nation's wetlands. However, it is clearly Congress response to the outcry in America that this particular regulatory program is totally out of control. This manual and related regulations have critically important policy implications that substantially impact State water rights, private property rights, property taxation matters, important flood control programs, as well as waterfowl habitat management and protection initiatives, to name just a few areas. The most significant of these far-reaching agency actions since 1977, including the manual and the aforementioned memoranda, have not been subjected to public comment. That, my colleagues, is absurd, arrogant, inappropriate governing—no matter what one's opinions are of the wetlands program.

Upon inclusion of this amendment in the fiscal year 1992 energy and water appropriations bill, I do encourage the Environmental Protection Agency and the Corps of Engineers to begin the public comment progress expeditiously and to treat it with the highest regard and honesty. It is no more than what is required for any other environmental initiative, and no less than the American public surely deserves.

Mr. BAUCUS. Mr. President, I am glad that the distinguished Senator from Louisiana has agreed to modify his provision in the energy and water appropriations bill (H.R. 2427), which would have adversely affected efforts by the Army Corps of Engineers to carry out section 404 of the Clean Water Act.

That provision would have prohibited the Army Corps of Engineers from using any funds after September 30, 1991, to identify or delineate any area as a wetland subject to section 404 of the Clean Water Act by means of the current (1989) Federal Manual for Identifying and Delineating Jurisdictional Wetlands or any subsequent manual that is not adopted in accordance with the requirements for notice and public comment under the Administrative Procedures Act.

I have called on the Federal agencies to adopt a technically sound and scientifically credible wetland identification manual that has been submitted to the public for review and comment before it is put in final form.

But the provision in the reported bill also would have prohibited the Corps of Engineers from using funds to apply or enforce section 404 with respect to any activities in areas that were delineated as wetlands using the current manual. The effect of this language would have been to require redelineation of the wetland sites identified in about 5,000 permit pending permit applications. Redelineation of these areas, as well as initial delineations for future permit applications and for those people who are trying to avoid filling wetlands, would have resulted in significant delays.

The provision would have required redelineation of thousands of pending section 404 enforcement actions—administrative, civil, judicial, and criminal—pending at the Department of Justice, before the courts, or under consideration at EPA or the Corps of Engineers. The provision would have caused considerable confusion regarding the status of all of those cases, as well as for any additional cases where a discharge had occurred and a delineation had been made under the 1989 manual.

Finally, the provision would have prevented the corps from monitoring or enforcing conditions to the tens of thousands of permits issued during the past 2 years that relied on the 1989 manual.

So I am glad that the provision has been substantially modified to largely resolve these concerns by removing the retroactive portions of the provision and requiring use of the 1987 corps wetlands manual in lieu of the 1989 manual. But I remain concerned that the modification offered by the Senator from Louisiana will result in greater confusion and delay.

The principal complaint of witnesses who have testified before the Subcommittee on Environmental Protection has been that people who apply for section 404 permits to develop wetlands is that the section 404 process is unduly complicated and time-consuming. Therefore, we should be looking for ways to reduce, not increase, those problems.

It would have been preferable to allow the corps to use the 1989 manual until December 31, 1991, or the date on which a manual is adopted in final form, whichever is earlier. This change would have given the Federal agencies a chance to make a smooth transition from the 1989 manual to a revised manual, thus avoiding a situation where the corps, under the energy and water bill, would be using one set of procedures—the 1987 manual—and the EPA and other Federal agencies would be using a different set of procedures—the 1989 manual.

The PRESIDING OFFICER. Is there further discussion of the amendment? If not, the question is on agreeing to the amendment offered by the Senator from Louisiana.

The amendment (No. 570) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I want to thank the distinguished Senator from Louisiana for his courtesy in the handling of this matter. He has described the situation, and I will not repeat it now. I think it is important that all Senators and the public understand that our objective is to have adopted, in final form, a manual, following public comment and the opportunity for people around the country to express their views as to how the proceedings with respect to wetlands should occur.

The difficulty we are now in is that the administration has been unwilling to submit the manual, first propounded in 1989 and now being used to implement the procedures, for public comment. The distinguished Senator from Louisiana and the ranking Member and many others are concerned about this. We may not agree on precisely what each definition or delineation is under the manual, but we do agree that what is needed is a public comment period and, following the consideration of those comments, adoption of a manual in final form that seeks to achieve what I think is the objective shared by the overwhelming majority of Senators, and that is preservation of wetlands in a reasonable and responsible way.

In most areas of public policy, there is a huge gap between the statement of general policy and its application in a specific set of facts. But I think in this instance, what we are trying to do and what this amendment is intended to do, as I understand it, is to encourage the administration to do that.

By coincidence, Mr. President, I will inform the distinguished Senator from Louisiana, the Environment and Public Works Committee has a hearing tomorrow morning on the subject of wetlands. I intend to attend that hearing to convey to the administration witnesses, the Administrator of the EPA, perhaps others from Interior, Fish and Wildlife, my view, and I believe the view of many others, that what we need out of the administration now is to put this manual out for public comment, receive that comment, and then propound in final form a manual that we hope will achieve our common objective.

So I thank the Senator. As I have said, we have had very good discussions on it. We may not agree on every application, every definition, every delinea-

tion, but we share in common a desire to get this process moving in a way that will end the uncertainty, anxiety, and difficulty that is now existing as a consequence of the administration's actions to date in this regard.

Mr. JOHNSTON. Mr. President, I thank the majority leader for his comment. He has stated it, as usual, correctly. It is our common desire to see the manual adopted after proper consideration and comments.

I might add that we had hearings on this matter in this committee. During that, after hearing some complaints from people from my State, I invited representatives of EPA, Fish and Wildlife, and the corps to come with me to my State to hear in person the comments and see some of the wetlands involved, which they did, which I think they found to be very constructive. I, as much as anybody in this body, want to protect wetlands. As the majority leader knows, I have had various amendments to try to get money to restore our wetlands and to mitigate their loss. With some success, we have been able to do that.

But on the question of the permitting and the procedures, it is very, very important to have the public, and particularly public bodies, involved. I believe that the new manual, whenever it is adopted, ought to involve public bodies first. The way the manual operates right now—and I will not go into it in great detail—if an individual property owner, an owner of one lot in a subdivision wants to do something that requires a permit, he must show that there is no other land in his county or parish that is available for this; that his is necessary, in effect, for that. It puts a huge burden on this individual property owner. That ought to be the kind of burden that a public body shoulders, along with the Corps of Engineers, EPA, and the Fish and Wildlife Service. I hope that the new manual will go through that procedure in designating wetlands.

In any event, I am very pleased we have been able to work this out at this interim stage of the proceedings, and I thank the majority leader for his constructive leadership.

Mr. MITCHELL. I thank my colleague.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

Mr. CHAFEE. Mr. President, I would like to be heard before the amendment is adopted, if I might.

The PRESIDING OFFICER. Without objection, the Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I would just like to thank the distinguished majority leader for his help in getting some of the problems straightened out. I think the final result is not necessarily what we would all want, at least what I would want. But life is a compromise around this place. It does seem complicated, I must say that. The new manual should be out very quickly. Then the confusion arises as to which manual in the meantime they operate under.

By the way, am I correct in saying that the line "nor shall any funds be used for application or enforcement of the provisions of section 404 to activities undertaken on such lands" has been stricken?

Mr. JOHNSTON. I believe the Senator is correct.

Mr. CHAFEE. If I am correct in this, it reads as follows, starting with the first paragraph:

None of the funds in this act shall be used to identify or delineate any land as a "water of the United States" under the Federal Manual for Identifying and Delineating Jurisdictional Wetlands that was adopted in January 1989 (1989 Manual) or any subsequent manual not adopted in accordance with the requirements for notice and public comment of the rulemaking process * * *.

Mr. JOHNSTON. If I may interrupt the Senator, the Senator is correct. We did strike the phrase "nor shall any funds be used for application or enforcement of the provisions of section 404 to activities undertaken on such lands." We did strike that and added two additional paragraphs.

Mr. CHAFEE. Again, I would like to thank the majority leader for his work in connection with this. I also feel confident when the majority leader has worked on wetlands matters, because I know of his great concern. He and I have been involved with these battles for many, many years on the same side.

I want to thank the distinguished floor manager also for the arrangement. It is a little complicated. We are going to have a hearing tomorrow in which we will urge the EPA to get out their manual as rapidly as possible. So this all may be moot; a new manual may be out by the time this legislation is enacted into law.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Rhode Island. I know of his interest in wetlands. I know he recently made a trip to Louisiana and saw, among other things, Bayou Sauvage, which is a refuge I had something to do with creating. I thank him for his interest in that and wetlands in general.

Let me assure the Senator this is not meant to kill wetlands regulation at all. I think he understands that. I am certain he understands that. There need be no lengthy interregum at all—in fact, the 1987 manual as a floor will be there, so that no wetland as defined under the 1987 manual could be defiled without getting a permit from the Corps of Engineers.

I think it is fair to say that the principal difference, other than the procedures involved between the 1987 to the 1989 manual, is that under the 1987 manual the corps had discretion to go virtually as far as the 1989 manual. The 1989 manual gave no discretion to do so. It was mandatory and compulsory. So that the corps will have full authority to protect during whatever lag time there is before the new manual is adopted.

I hope that lag time is not lengthy, and I do hope it is one that recognizes the right of not only individuals but local governing bodies to be heard in this matter.

So I thank the Senator from Rhode Island for his interest.

Mr. CHAFEE. The distinguished Senator should feel very, very satisfied for Bayou Sauvage, which I think is in the neighborhood of 22,000 acres, which is a magnificent wetland that has, indeed, been saved. And all of it is in the environs of the city of New Orleans, if you can believe it. There it is. It has been saved and perhaps someday they will call it Bayou Johnston, for all we know.

Mr. JOHNSTON. We pronounce that in New Orleans, "Bayou Johnston."

Mr. MITCHELL. Will the Senator yield, because I want to make comment with respect to the remarks of the Senator from Rhode Island.

Mr. JOHNSTON. Yes, I am happy to yield.

Mr. MITCHELL. First, Mr. President, as every Member of the Senate knows, no Member of the Senate is more diligent in the protection of our environment generally, and preservation of wetlands specifically, than the Senator from Rhode Island.

I merely want to inform him that with respect to the amendment just adopted, it is a classic compromise. The Senator from Louisiana had a position that was in the bill; I suggested an alternative position; and we met and discussed it. The result is a middle ground between the two. It represents a balancing of competing concerns, both of which are valid.

The concern of the Senator from Louisiana was as to the problems that are currently arising from the implementation of the 1989 manual, the reasons he has stated, and there is no doubt that there are problems arising in that regard.

My concern, as I expressed to him, was the confusion that will result from the possibility of two changes in policy; one occurring at the beginning of the next fiscal year on October 1 when we go from implementation of the 1989 manual to an optional 1987 manual or 1989 manual, and then, hopefully, shortly thereafter to a final manual if the EPA moves and we get the period of public comment.

We discussed that in an open and candid way, and the result is a middle ground. I think both points of view are valid. As often happens, we are weighing competing concerns.

I want to assure the Senator from Rhode Island that I would have pre-

ferred a longer period of time to avoid the possibility of two changes in course of action in a relatively short period of time. The Senator from Louisiana would have preferred the original language in the bill. The result is, I think, a reasonable compromise, and it is a subject that I do look forward to working on with the Senator from Rhode Island.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, the reported committee amendment on page 51, lines 10 through 16, is an amendment that would strike House language and insert additional language to clarify the matter of payments and credits by utilities into the nuclear waste fund as a result of a court decision concerning overcharges and overpayments into the fund.

This amendment has raised issues concerning scorekeeping of future payments due the fund as well as credits for future payments. After further discussion with OMB, we have decided to leave the language as it was originally submitted when the budget was transmitted to Congress in January and, therefore, the committee-reported amendment is no longer necessary. This has been cleared on the Republican side and, inasmuch as it is no longer necessary, I move to table the proposed committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. JOHNSTON. I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 571

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 571:

On page 57 line 14 strike $403,600,000 and insert: "$567,600,000."

Mr. JOHNSTON. Mr. President, this is a technical amendment to correct an error in the bill. Due to the short time period the subcommittee had in putting the bill together, program direction funds amounting to $164,000,000 was inadvertently left out of the appropriation for other defense programs on page 57. This amendment merely conforms the bill to the total amount recommended by the committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 571) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I yield the floor.

Mr. DOMENICI. Mr. President, I know Senator GLENN has an amendment, and it will take just a moment. I am on the subcommittee, and I just wanted to make a couple of comments regarding the overall bill.

Obviously, Mr. President, this is very important to those of us who have national laboratories and defense nuclear activities within our States, and that happens to be the case as far as New Mexico is concerned.

Mr. President, I rise in support of the energy and water development appropriations bill reported by the Senate Appropriations Committee.

By CBO's scoring, this bill provides $22 billion in new budget authority and $13.1 billion in new outlays for the Department of Energy, the Corps of Engineers, the Bureau of Reclamation, and for other selected independent agencies. By CBO's scoring the bill is within its section 602(b) allocation.

I want to thank the distinguished chairman and ranking member for including additional funding for the Department of Energy's defense activities. This funding will help address what has been a steady erosion in funding for the core research, development and testing programs at DOE.

I also note that this action would not have been possible without the assistance and cooperation of the distinguished chairman of the full committee, Senator BYRD, and Senators INOUYE, and STEVENS.

I particularly appreciate the subcommittee's support for a number of projects and programs important to my home State of New Mexico.

One of these programs is $50 million in funding to carry out the National Competitiveness Technology Transfer Act of 1989, which I coauthored.

This legislation will encourage the integration of the scientific and technical expertise of DOE's national laboratories with U.S. industry to enhance their capabilities and their ability to compete in an expanding global market.

I commend the subcommittee chairman, the Senator from Louisiana, and Senator HATFIELD, the ranking member, for producing the first Senate appropriations bill for fiscal year 1992, a bill that falls within the subcommittee's 602(b) allocation and meets the caps of the budget summit agreement and CBO's estimates.

AMENDMENT NO. 572

(Purpose: To transfer funds for atomic energy defense activities from research, development and testing, and production and surveillance, to environmental restoration and waste management)

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio, [Mr. GLENN], proposes an amendment numbered 572.

Mr. GLENN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 54, line 2, strike "$1,976,650,000" and insert "$1,941,650,000".

On page 54, line 13, strike "$2,590,478,000" and insert "$2,507,478,000".

On page 56, line 14, strike "$3,640,372,000" and insert "$3,758,372,000".

Mr. GLENN. Mr. President, the purpose of this amendment is to restore $118 million to the Department of Energy's budget for its Office of Environmental Restoration and Waste Management. The amendment would also require a commensurate offset reduction in DOE's weapons activities program.

Unfortunately, the current bill requires a general reduction in the DOE cleanup program of $108.5 million. My amendment would put the DOE cleanup program at the spending level the House Armed Services Committee approved.

As a member of the Armed Services Committee with three DOE facilities in my home State of Ohio, and as chairman of the Governmental Affairs Committee, I have maintained a very special interest in DOE's nuclear weapons program for a long time. We have been working on this for about 7 years as Members of this body, and I have risen on this floor repeatedly to address this particular problem of waste management and cleanup.

Mr. President, it took many years of hearings, numerous reviews by the General Accounting Office, the National Academy of Sciences, and other independent groups to convince the Department of Energy that it had a very serious environmental safety and health problem.

In light of these problems our national policies regarding the production of nuclear weapons have undergone a remarkable transformation in the last few years. The buildup of the nuclear arsenal so aggressively promoted by the Department of Energy throughout the 1980's ultimately became a major factor in the incipient collapse of the department's nuclear industrial infrastructure.

This happened mainly because the very same elements that led to the successful development of the first nuclear weapons—isolation, secrecy, decentralized management, self-regulation, extensive contractor dependence—have left us with numerous deteriorating facilities, and enormous accumulations of dangerous waste products and profound contamination in the environment.

Mr. President, we all remember back in those days of the sixties, the fifties, when the watchword, the cry was in the weapons community "The Russians are coming. The Russians are coming." We had to get ready. So production was the watchword, production of fissile materials, production of materials for nuclear weapons.

Mr. JOHNSTON. Mr. President, I wonder if the Senator would yield to discuss a unanimous-consent request?

Mr. GLENN. Yes.

Mr. JOHNSTON. The majority leader had stated that the Senator from Ohio either wanted or was willing to have an hour equally divided on this amendment. If the Senator from New Mexico and the Senator from Oregon are willing, that would suit me, to have an hour equally divided.

Mr. DOMENICI. Briefly reserving the right to object, could I just discuss a matter with the Senator from Ohio for a moment before we agree?

I discussed this matter with the Senator generally before the amendment was offered. Since then, I have had a chance to look at it, and I had an indication from the Senator from Ohio that he did not intend to reduce its RD&T at the nuclear laboratories in his amendment. I am not choosing pieces but I just wanted to inform the Senator that he has reduced it by $35 million in this amendment; that is, the basic RD&T which is in this bill. That is not what I am concluding he intended to do.

Mr. GLENN. We have that function. If our figures are correct, I believe it is still some $230 million above the request by DOE. That is out of the function that encompasses weapons research development and testing.

If that comes out of labs, I was not aware that this was specifically oriented to the labs. If it is, well, it is still close to $230 million over what DOE requested.

Mr. DOMENICI. The Senator may be correct. But I understood that he did not want to take it out. I wanted to inform him that he had.

Mr. GLENN. I generally have said I have been supportive of the labs, and I have. I think I have supported the requests for increased money for the labs. I do not think they should be going downhill at all.

I am very much concerned about the environmental safety and health situation that we have created over the past 45 years or so. I just do not like to see money being reduced for that function. That is basically what this is all about.

Mr. DOMENICI. I do not know, without talking further with the chairman, whether I am prepared to agree to an hour because frankly the money that is in this account that I am referring to was actually transferred from defense to this account. Now we are going to reduce it. It would not even have been there but for the fact it came out of defense to go into this account, and now we are going to put it somewhere else. That is really not what it was intended for.

Perhaps a minute's discussion with the chairman might permit the Senator from New Mexico to agree.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, if it is agreeable with the distinguished Senator from Ohio, I will now ask unanimous consent that there be 1 hour for debate on this amendment equally divided between the distinguished Senator from Ohio, Mr. GLENN, and myself. Does anyone desire to amend that?

Mr. GLENN. If I have a half hour, that is fine. Now equally divided?

Mr. JOHNSTON. Provided that no second-degree amendment be in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. Who yields time?

Mr. GLENN. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GLENN. Mr. President, I indicated some of the problems that had developed, and I indicated back in those days, fifties, sixties, the cry was "The Russians are coming," and we have to produce nuclear materials for weapons. What do we do with the radioactive waste? Do not worry about those. We will put them out in a pit. We will store them some place. Worry about them later.

Now is later—starting about 7 years ago when we first began trying to address this program of environment safety and health and radioactivity.

Mr. President, now we find ourselves looking at an entirely different dilemma. Instead of facing the risk of not having enough nuclear weapons we face growing risks to our health, the environment, and the economy, from the legacy of the nuclear arms buildup of the past 50 years.

Moreover, with an acceleration of unilateral nuclear weapons retirements and continuing nuclear arms control we find ourselves ironically facing a new set of problems stemming from not having the basic industrial capability to safely manage the large amounts of surplus nuclear and hazardous materials coming back to the United States.

Given these circumstances, the problems of allocating shrinking resources between production and cleanup have never been greater. Nonetheless, the basic fact remains that waste management and environmental restoration has become one of the most important tasks that the DOE must address to assure the viability of the DOE nuclear weapons complex.

Thus, Mr. President, I am indeed disappointed to see that the energy and appropriations bill contains a general reduction of $108.5 million in DOE's environmental restoration of waste management budget compared to the House, and $65 million below the department's budget request, and an increase above the House allowance of $308 milion for DOE's weapons programs.

Mr. President, that is $250 million above DOE's budget request for weapons programs. I respectfully believe that this ratio of spending which favors production over cleanup once again does not reflect the changing priorities of the department. Indeed, it starts us back onto that same track of emphasis on production over safety and health that got us into this mess over the last 45 to 50 years.

Over the past few years, the DOE has, for the first time, been trying very hard to address the daunting health and environmental legacies of the nuclear arms race. Quite simply, since World War II, the DOE has used the environment of the sites they occupy as disposal media for massive amounts of radioactive and toxic wastes. Not surprisingly, the contamination that has been created is among the most severe in the world. At the Hanford Nuclear Reservation in Washington State some 400 billion gallons of hazardous and radioactive liquids have been dumped into the soil—enough to create a lake the size of Manhattan 80 feet deep. In particular, large amounts of high-level nuclear wastes were dumped there during the 1940's and 1950's into unlined burial trenches. Now there is concern by the Environmental Protection Agency that the soil beneath these trenches may be as radioactive as the contents of some of Hanford's high-level waste tanks. It is not known with any certainty how fast these contaminants are traveling.

The risks from DOE's radioactive wastes are not just limited to past dumping but also involve the potential for explosions in existing waste tanks at the Hanford and Savannah River sites. These problems were underscored last year at hearings regarding accident and explosion hazards at DOE high-level waste sites before the Governmental Affairs Committee. Unlike

DOE's reactors, the high-level waste tanks at Hanford and Savannah River cannot be shut down if a danger exists. And unlike DOE's reactors, until recently, the Department has virtually ignored waste accident problems.

Moreover, the technologies to stabilize and clean up these sites, in some cases, do not exist. The DOE has characterized less than a third of the contamination created. We know even less about the health impacts production may have had on the thousands of Americans who live near and work at DOE sites.

However, since Secretary Watkins took charge of the agency, he has taken steps to put the DOE cleanup program on a more sound operational basis. For instance: DOE has consolidated its cleanup efforts under a new Office of Environmental Restoration and Waste Management. Five-year cleanup budgets have been developed. Efforts are underway to reform DOE's open-ended contract system. The Department is attempting in good faith to comply with environmental laws; and major emphasis is being placed on research and development of waste management and cleanup technologies. That is all to the good.

Unfortunately, the spending cut embodied in the energy and water appropriations bill will set these efforts back. Specifically, the $108.5 million cut will delay cleanup actions at DOE sites across the country, making it necessary for DOE to renegotiate compliance agreement milestones—thus, leading to an eve more costly cleanup in the future. The number of compliance agreements reached with EPA and the States to better manage hazardous wastes and to clean up DOE sites will have grown from 59 in the fall of 1990 to 86 by the fall of this year.

This means that compliance agreements in California, Washington, Idaho, Nevada, Illinois, Ohio, Missouri, Texas, South Carolina, Florida, Tennessee, Kentucky, New York, Pennsylvania, and so forth, will be impacted.

The energy and water bill automatically puts the DOE in a poor bargaining position with regulators because spending levels favor weapons over health and environmental protection. Here we go down that slippery slope once again. The energy and water bill automatically puts DOE in that sort of a poor bargaining position.

Waste minimization, a key aspect of DOE's cleanup technology R&D program will be set back. Also, there is a distinct possibility that the restart of DOE's production facilities could be jeopardized after 90 days of operation by this cut because of not having adequate funding to meet Resource Conservation Recovery Act driven storage requirements. For example, the restart of the F and H reprocessing plants at the Savannah River Plant could be crippled because of the lack of adequate storage and treatment capacity required under the Resource Conservation and Recovery Act.

Increasing the budget for DOE's nuclear weapons program at the expense of the cleanup of DOE sites, would undermine public confidence in Secretary Watkin's efforts to restore the agency's badly damaged credibility.

Also, the $308 million increase in weapons spending, provided for in the energy and water bill, comes at a time when our nuclear arsenal requirements are shrinking. In February of this year, the Governmental Affairs Committee, which I chair, held an oversight hearing on the Department's proposed reconfiguration study for the nuclear weapons complex.

The study calls for a significant downsizing of the DOE's nuclear weapons research and development and production capability. It also suggests that additional plutonium production is not needed. In fact, at the hearing DOE indicated that the amount of surplus missile materials from retired warheads, which will have to be managed, could become quite large.

Perhaps one of the most striking facts that came out of that hearing was the degree to which the U.S. military is unilaterally retiring nuclear weapons outside of arms control agreements. DOE witnesses clearly indicated that the rate of unilateral warhead retirements not linked to arms control are and will be significantly greater that retirements linked to arms control, including the upcoming START agreement.

While I understand the need to fund the DOE's deteriorating nuclear weapons infrastructure—and I have supported that—I am also concerned that we not do this without taking into account the rather significant reduction in our nuclear arsenal requirements. Therefore, I want to make it clear that my amendment in no way is meant to take funding away from programs to assure the safe retirement of nuclear weapons and those programs designed to upgrade environmental, safety, and health activities associated with DOE's production and surveillance activities.

We should also not ignore the financial mismanagement problems of the weapons complex.

We now know, based on the work of the DOE inspector general that tens of millions of dollars have been mispent at DOE weapons sites. Large sums of money have been spent for projects which the Congress had not authorized. DOE contractors at weapons facilities and weapons laboratories were found to be engaging in spending practices that led to excessive and unecessary expenses for the Department. Competition has been found by the DOE inspector general to be an alien concept for DOE weapons contractors, who are wasting million of dollars that could have been saved by competitive procurement. Until recently, at the Savannah River Plant, the criminal theft of Federal money would have been considered to be an allowable cost because of inadequate contract standards.

Although the DOE cleanup program, from the very beginning was able to generate annual 5-year spending plans, DOE's defense program is over a year late in submitting its first 5-year spending plan, even though it was mandated by law in 1989.

Increasing the rate of spending for DOE's nuclear weapons program, at the expense of the cleanup of DOE sites, sends the wrong signal to the agency and to the American public.

It indicates that the Congress is willing to ignore the rather disturbing lack of control DOE has over its weapons contractors and also implies that the Congress is willing to reward this program, despite the continued misuse of funds.

Mr. President, protecting the health and environment of Americans, cleaning up the severe contamination at DOE sites, and restoring credibility to the Federal nuclear program should not be shortchanged. We spent years getting an adequate amount into this environmental safety and health budget, and I respectfully urge my colleagues to support my amendment to restore that funding, to increase funding for DOE's cleanup program, and require commensurate offset reductions in DOE's weapons program for all the reasons I have enumerated above. I believe this is the least we can do to ease the tremendous environmental burden we will leave our children as a result of the nuclear arms race.

Mr. President, just in summary I would say that what this amendment does itself is strike money from two places in the bill. It strikes money and adds money then in a third place.

The first place it strikes is out of the weapons research development and testing program. It only takes $35 million out of that program, which is already approximately $230 million above what was requested by DOE. The second place it cuts is weapons production and surveillance. It cuts $83 million, and that reduces DOE's request by $41 million. Add those together and it comes out to the $118 million added back to the environmental restoration and waste management account.

Mr. President, that equals the amount the House has already authorized in their legislation and I think is the least we can do after fighting for so many years for environmental cleanup funds so we can start the cleanup that has been neglected for so many decades.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Ohio has 16½ minutes remaining. The Senator

from Louisiana controls his remaining time.

Mr. JOHNSTON. Mr. President, I yield myself 5 minutes.

No one in this body is more concerned about environmental restoration and waste management than I. Well, perhaps the Senator from Colorado who has Rocky Flats is. I know about his deep concern.

At least let me say, Mr. President, it is a great concern with me. A few years ago I sponsored an amendment to have a research institute for defense cleanup. It is a huge problem in this country.

Mr. President, the fact that it is a huge problem does not mean that it is easily solvable or that indeed applying money to the program automatically results in cleanup.

If I may tell my colleagues what we have done in this account, in 1988, we had $881 million, in the environmental management account. By 1989 it was $1.73 billion. By 1990 it was $2.393 billion. By 1991 it was $3.455 billion and in this budget it is $3.6 billion.

Mr. President, it has gone from $880 million in 1988 to $3.7 billion requested for fiscal year 1992, more than four times the 1988 level.

The $3.640 billion recommendation in this bill is a 52-percent increase over the 1990 program and a 17-percent increase over the 1991 program. This is before adding the $340 million provided in the dire emergency supplemental bill.

Furthermore, Mr. President, it is unlikely that the money in that 1991 supplemental will be spent this year. Frankly, they do not know how to spend it. As of May 31, 1991, the unobligated balances in the environmental restoration and waste management program, this program, were $421 million and the uncosted balances—that is work not performed—amounted to $1.327 billion. This is the equivalent of a full half year's funding.

The amount recommended for environmental restoration and waste management is $595 million over the amount included in the 1991 energy and water appropriation bill. So, Mr. President, we have more money in this account than they know how to spend.

Mr. President, the assistant secretary in this matter is Leo Duffy, a man for whom we have high regard. When he testified recently before this committee, we discussed with him the huge problem he has in identifying these problems and determining how to clean them up, in managing a program that is growing by leaps and bounds; four times over this program has gone since 1988, four times over.

Now just the sheer physical job of managing that much money—I mean you do not spread dollar bills out on the ground and they do not automatically absorb nuclear waste. You have to figure out what the problem is, how to clean it up, get a contractor, oversee the contractor. Just to pump more money in does not help. So, Mr. President, we think a 400-percent increase since 1988 is enough.

On the question of whether we have raided this account in order to help the nuclear weapons account or in order to help any other account, the answer is definitely no.

The amount identified here, the $108.9 million, is an account that we call savings and slippage. That is a line item that is included in all of our accounts.

For example, the Corps of Engineers has a savings and slippage of $151 million in this bill. It means that work that they want to do and are able to do is delayed because of permit delays, because of weather delays, because of a whole series of things.

Just as I pointed out that they have $421 million in uncosted balances that is work not performed, there have been delays in the program. There always are.

Last year the administration requested and we budgeted some $142 million in so-called savings and slippage. So the $108 million which is less than last year for savings and slippage is not raiding the program. To the contrary, it is a lesser amount of transfer for the ordinary expected delays and problems along the way—permitting problems—for example, than we usually have. We did not take the $108 million out of this program in order to help anything else.

The $200 million which was put into the weapons labs, the distinguished Senator from New Mexico will speak about this in greater detail. But essentially, after we had made this $108 million—an additional 2 minutes Mr. President—after we had made this account for $108 million in savings and slippage, then the Senator from New Mexico and I went to the distinguished members of the Defense Appropriations Committee and asked for a transfer of $200 million from their account, which is the 050 account, to our account which is the 053 account.

The PRESIDING OFFICER. The time has expired.

Mr. JOHNSTON. Mr. President, I request an additional 2 minutes.

In addition to the 053 account which is for the weapons labs, it was a transfer from defense appropriations and those functions to defense emergency matters which is the national labs. That was the transfer. It was not a transfer out of cleanup for a noncleanup measure.

So, Mr. President, we really believe we are confident—in fact we are overconfident—that we have more money here than we can sensibly spend. I mean we provide it last year because it is a full half year's funding that it unspent.

Leo Duffy has an incredible problem in managing this account. We spoke about this in great detail.

The DOE inspector general has identified the environmental restoration and waste management program as the No. 1 area in DOE for potential fraud and abuse. Leo Duffy testified to that. Why is that? Because it is such a huge program with so many dollars.

Mr. President, if we had an extra $10 billion and we put it in this program this year it would not do any good. We do not know how to spend it. We have not been able to spend that which we already have. I wish we knew how. But we have enough money and the $108 million transfer for savings and slippage, believe me, is not robbing waste cleanup in order to do something else.

It is an ordinary accounting transfer problem, recognizing the realities of delay and the problems along the way.

Mr. DOMENICI. Mr. President, will the Senator yield me 5 minutes?

Mr. JOHNSTON. I yield 5 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I might say to the Senator from Ohio, you will note the overall amount of money in this bill for defense, that is DOE defense, is $200 million more than the President's budget request and $200 million more than the House bill. Now, that is really what happened. So the Senator will know—when we had the Secretary of Energy before the Appropriations Subcommittee, we asked him about the DOE defense budget for the National Laboratories and how much it was shortchanged when the budget was put to bed. I said to him, "About $200 million?" And the response was "About $200 million."

Now, I say to the Senator from Ohio, what we did is exactly what Senator JOHNSTON has indicated. We went over to the full Appropriations Committee and we said, "You should give us $200 million from defense, from function 050, the total for defense. Let us put it in an account so we will not shortchange DOE defense research activities."

The committee agreed. The Senator's amendment assumes that when we put that money in DOE for the three deterrent laboratories, after we had funded the other ones, we put the entire $200 million there. Obviously, we raised the level that the President asked for because the Secretary had already told us when they put the budget to bed, he shortchanged his own department by $200 million.

I really do not think, when environmental cleanup is going up in 4 years by over 300 percent, that is the account you want to add some more to. It has gone up more than 300 percent. I do not think the Senate really wants to remove money from nuclear research at the deterrent laboratories. In fact, I have a letter dated July 9 from the three lab directors. The letter is to Senator BENNETT JOHNSTON and Senator MARK HATFIELD. It clearly says that these laboratories are in a down-

hill slide; that their capability is greatly diminished from 5 or 6 years ago, and their workload, which the Senator from Ohio is very familiar with, is not going down because the Soviets are not reducing their nuclear capability. We are engaged day by day in all kinds of new arrangements, surveillance, and they have more work to do rather than less.

I ask unanimous consent that the letter to the two Senators be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LOS ALAMOS NATIONAL LABORATORY
OF THE UNIVERSITY OF CALIFORNIA,
Los Alamos, NM, July 9, 1991.

Mr. J. BENNETT JOHNSTON,
Chairman, Senate Energy and National Resources Committee, Senate Hart Office Building, Washington, DC.

Mr. MARK HATFIELD,
Ranking Minority Member, Subcommittee on Energy and Water Development, Senate Hart Office Building, Washington, DC.

DEAR SENATORS JOHNSTON AND HATFIELD: An Op-Ed article by Mr. Leslie Gelb published in the New York Times on June 26, 1991 touched on the issue of funding of the Department of Energy nuclear weapons laboratories. His assertion that billions are being squandered in "full employment programs" along with allegations of "eating up a fortune in overhead" are grossly in error. Contrary to his allegation, we are deeply concerned about maintaining the technical competence for the nuclear weapons program as we reported to Senator Exon's Subcommittee on May 9, 1991. We want to reiterate some of our concerns in response to Mr. Gelb's article.

The current nuclear weapons research, development, and testing (RD&T) budget at the three nuclear weapons laboratories and the Nevada Test Site totals $1.7 billion, but the budget cuts of the past few years are placing nuclear competence at risk. The laboratories have lost nearly one-third of the skilled professionals working on nuclear weapons RD&T over the past five years. The RD&T share of the Energy Department's defense activities has dropped from 35 percent in 1978 to 16 percent today. Contrary to Mr. Gelb's assertion, the Department and key congressional committees are keenly aware of these budgetary shortfalls. Several departmental studies are addressing the concerns about nuclear weapons RD&T funding and nuclear competence.

The United States continues to rely on nuclear deterrence as a cornerstone of its national security. Nuclear deterrence has been successful for over 40 years because national leaders believe beyond a reasonable doubt that the nuclear forces, if called upon, are deliverable, survivable, and would function as intended. This belief does not rest on technical knowledge on the part of the leaders, but rather on assurances provided to those leaders by scientists and engineers in whom the leaders must have complete confidence.

Nuclear competence and, therefore, the credibility of the U.S. nuclear deterrent rest indispensably upon the credibility of the three nuclear weapons laboratories. The cold war thaw will allow deterrence with significantly reduced nuclear arsenals, but once we lose nuclear competence we undermine the credibility of the deterrent.

We are well aware that the role of nuclear weapons is changing as a new world order emerges. In fact, our priorities have already changed markedly, although our responsibilities have not diminished. For example, confidence in the safety of nuclear weapons continues to be of utmost importance. Safety today is measured against higher standards than ever before. Safety has always been built into the design and into handling and operating procedures. However, a recent congressional panel chaired by Professor Sidney Drell of Stanford University concluded that in tomorrow's stockpile more of the safety features in nuclear weapons must be built into the weapons themselves rather than depend as much on operational safeguards. Such safety features should be emphasized even if they result in less than optimal military characteristics.

The Drell panel challenged the laboratories to "launch a competitive priority effort . . . for new warhead designs that are as safe as physically possible against unintentional, accidental, or unauthorized detonation leading to a nuclear yield or the dispersal of plutonium." This challenge tops our priorities today as the nation carefully builds down its nuclear arsenal.

Building down the arsenals is important because arms control must not only "feel good", but it should reduce the risk of war and increase our nation's security. The fewer weapons that remain, the more important it becomes that we have confidence in those remaining. This confidence is based on the professional RD&T skills residing at the three laboratories.

The skills are also critical in assessing the nuclear proliferation threat as well as being able to respond to potential emergencies and terrorist threats.

Reconfiguring the nuclear weapons complex for the smaller arsenal of the future and cleaning up a legacy of nearly five decades of production will be enormously expensive. The weapons laboratories will be key elements in designing the smaller, safer, and more affordable nuclear weapons complex of the future.

Leo Duffy, the Energy Department's cleanup czar, has emphasized the need for new technologies to clean up better, safer, cheaper, and faster. We support his program. Avoiding future cleanup problems by preventing them at the source rather than at the "tailpipe" requires competence in all aspects of nuclear weapons design and development. Investing RD&T resources in such activities today will pay for itself many times over in the future.

Finally, the laboratories have been a key factor in keeping the nation at the forefront of defense technologies to meet the threat of a host of emerging and potential adversaries. The world does not appear to be at the "end of history," nor at the end of hostilities. Technological superiority will remain important as we face an uncertain future. We must remember that the world can change rapidly. The atomic bomb was developed because of a German threat, yet it was used to end the war with Japan, and in short order to deter the Soviets.

Has technology declined in importance so that democracies need no longer worry about military implications of new scientific breakthroughs? We think not! Whereas today the nation can afford to have fewer nuclear weapons, it cannot afford to be less smart.

Sincerely,

JOHN H. NUCHOLLS,
Director, Lawrence Livermore National Laboratory.

SIEGFRIED S. HECKER,
Director, Los Alamos National Laboratory.

ALBERT NARATH,
President, Sandia National Laboratories.

Mr. DOMENICI. Mr. President, I think it should be clear to everyone that the distinguished Senator from Louisiana and Senator HATFIELD from Oregon truly want to put as much in the environmental cleanup account as we can spend in a fiscal year. I believe they have truly done that. And they have also, at the same time, taken care of truly needed programs within the production and surveillance accounts.

And, as the distinguished chairman has said, the accounts for the research, development, and testing activities carried out by the National Laboratories has gone up because the money was received from the Department of Defense and put in this account for that purpose.

Obviously, if tonight the Senate is going to take money away from the research account, which would not have been there had we not allocated it to this account, obviously we would be better off leaving it to the Department of Defense to spend, rather than transferring it and using it for purposes that were not intended.

So I urge the Senate to turn this amendment down. I think the committee has done an excellent job in disbursing the money. I agree with the chairman; there will be more money in this cleanup account. A month before the fiscal year is over, they will still have $400 million remaining to be spent. I do not think we ought to keep doing that when other accounts do not have enough to do their jobs right.

I ask unanimous consent that a detailed statement of some of the activities that were deleted from the National Laboratories in the President's budget request be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ACTIVITIES DELETED FROM NATIONAL LABS FISCAL YEAR 1992 PRESIDENT'S BUDGET FOR DOE

	Millions
Stockpile maintenance: Includes safety assessments, component redevelopments, stockpile improvement projects	21.1
Weapon effects testing and diagnostics: Includes aboveground test development to reduce dependence on underground test	10.5
ICF: Includes timely demonstration of beam focusing and capsule implosion to meet NAS milestones	5.0
New weapon systems work: Includes testing and safety assessment, development, flight/ground/interface tests	26.0
Test equipment and flight instrumentation	6.7
Weapon use control development	9.5
Materials and process development: .. Includes environmentally acceptable materials and processes, accelerated aging, and characterization	14.8

	Millions
Weapon system engineering and integration: Includes Focal Point test bed, independent surety evaluations	52.4
Computation and modeling: Includes validation of codes for accident likelihood and consequence analysis	8.4

Minimizing the waste associated with the production of nuclear weapons through: The development of precision casting techniques for special nuclear weapons materials, $2 million; the development of alternative weapon case material, $3 million; minimization of reliance on toxic materials in new weapon designs, $3 million.

Existing nuclear weapon designs, and their associated fabrication and machining techniques, produce large amounts of hazardous materials. This investment will assure that hazardous byproducts are minimized in the future.

This investment will assist our safety concerns by developing safer weapons through: Acceleration of the development of Insensitive High Explosives (IHE) and Fire Resistant Pits (FRP) for existing warheads, $16 million; development of "supersafe" concepts for future weapons systems, $8 million; acceleration of computer simulation concepts for design and evaluation of nuclear weapon safety features, $5 million.

The IHE and FRP features would serve to prevent or minimize the release of contaminating radioactive material in accidents involving nuclear weapons. Innovative "supersafe" concepts should lead to even safer weapons in the future. Finally, more effective simulation techniques will help to minimize our need to test weapons to effectively evaluate their performance.

Mr. DOMENICI. Mr. President, I support the Energy and Water Development appropriations bill of fiscal year 1992 as reported by the Senate Appropriations Committee.

The bill now before the Senate includes a total of $11.97 billion in budget authority for the Department of Energy Atomic Energy Defense Activities. This recommendation is $200 million above the House bill and the President's fiscal year 1992 budget request.

The increased funding is included in the bill at my request, and with the concurrence of the distinguished chairman of the Appropriations Committee, Senator BYRD, the ranking member, Senator HATFIELD, and of the distinguished chairman and ranking member of the Defense Appropriations Subcommittee, Senators INOUYE and STEVENS.

The Senate Appropriations Committee has approved a reallocation of function 050, defense, funding from the Defense Appropriations Subcommittee to the Energy and Water Development Subcommittee for subfunction 053, atomic energy defense activities. This reallocation is fully consistent with the spending caps agreed to in the bipartisan budget agreement, and I thank my distinguished colleagues for their support of this important initiative.

These funds are critically needed to reverse a disturbing erosion of the core weapons research, development, and testing [RD&T] programs at the Department of Energy's [DOE's] three nuclear deterrent national laboratories.

Staffing levels are approaching the lowest levels in years, and the budget request falls $42.6 million short of even keeping pace with inflation. Adoption of the budget request would eliminate any initiatives to improve the safety of the nation's nuclear deterrent capability.

These declining budgets come at a time when these labs are being asked to perform at increasingly technical levels in the areas of environmental compliance, environmental cleanup, and the reconfiguration of the weapons complex.

With continued progress toward the signing of the START Treaty this summer, these laboratories are also tasked with significant activities related to arms control and verification.

The House Armed Services Committee recently published the recommendations of the Drell Panel on Nuclear Safety, which place a renewed priority on the safety of existing nuclear weapons.

A significant portion of these funds will be used to develop and accelerate warhead safety and security enhancements to better maintain the nuclear stockpile.

These funds will accelerate work on supersafe nuclear designs and on environmentally improved materials and processes used in nuclear weapons production.

A portion of these funds will be used to move forward with the timely demonstration of the inertial confinement fusion technology to meet National Academy of Sciences milestones.

Some of these funds will be devoted to improved testing, again necessary to ensure the safety of the nuclear stockpile.

In sum, the additional $200 million in defense funding would be allocated in the following manner: $150 million to weapons R&D, operations; $20 million to weapons R&D, capital equipment; $17.7 million to weapons testing; and $12.3 million to the Inertial Confinement Fusion Program.

In short, Mr. President, these funds are necessary if the DOE labs are to fulfill their mission of responsibility, ensure the nuclear deterrent capabilities of the Nation, and to maintain the nuclear stockpile in a safe and secure manner.

I urge the adoption of the Senate bill.

Mr. President, if I have any remaining time on my 5 minutes, I yield it back.

The PRESIDING OFFICER. The Senator from Ohio is in control of 16½ minutes.

Mr. GLENN. Mr. President, I yield 5 minutes to the distinguished Senator from Colorado.

Mr. WIRTH. I thank the distinguished Senator from Ohio for yielding and for raising this very important amendment. I appreciate the support that the distinguished chairman of the subcommittee and the distinguished Senator from New Mexico provide to the National Labs, and I have myself long been a supporter of the National Labs.

But as the All-Star Game is on right now, Mr. President, and as I would bet that 90 percent of our colleagues and 95 percent of the country are watching the All-Star Game and not watching this debate, they are missing what is essentially a very simple choice that we have in looking ahead at where the country is going, and what kind of problems we are facing.

The choice is whether we want to spend a great deal more building more nuclear weapons when the cold war is over, or do we, as DOE itself has said, want to put a greater priority on cleaning up? Do we want to build more nuclear weapons—For what? Or do we want to clean up and start on a task that we know is getting greater and greater.

I think, obviously, we should support the amendment offered by the Senator from Ohio and myself. I believe that we ought to put that money to work right here at home to clean up for our children and grandchildren the phenomenal waste mess that the DOE has created.

The argument is made that we cannot use this money effectively. The States of this country—the Senator from Ohio knows this—the States have already signed 62 compliance agreements with the Department of Energy—62—and another 25 agreements are in negotiation right now. These are agreements that we are just beginning to get going. And yet the statement is made that we cannot use the money.

Then the argument is made: Well, you cannot spend all this money this year. Then why in the world, Mr. President, did the Department of Energy's Environmental Restoration and Waste Management Office request $900 million more for cleanup funding: This is the Department of Energy, not the Environmental Protection Administration. This is the Department of Energy, requesting $900 million more for cleanup than was agreed to by OMB.

The Department's request went to OMB, went to Sununu and Darman and Co., and they turned it down. When that money got turned down, the Department of Energy appealed: They can use the money. They not only requested it, they then turned around and appealed.

And they said the following: They said if they did not have the money to fulfill their commitment, they would lose their bargaining position with all the regulators. The Department of Energy said they would be personally libel, officials down there, if the Department failed to request adequate

funding to carry out the agreement. They said the public would lose confidence in the Department of Energy's effort to protect the health and safety of citizens and workers, and they said if this money was not granted, they certainly could not meet their 30-year cleanup goal to try to clean this up over 30 years.

Cannot use the money? Wait a minute. The Department itself requested a great deal more, and appealed it when the White House turned down their request. So to suggest, Mr. President, that the money cannot be effectively spent defies what was asked for by the Department initially.

Now, the $118 million goes into acounts that are already above the administration's request. The research, development, and testing account is already $178 million above the administration's request. We are already spending more than the administration itself asked us to spend on research, development, and testing of nuclear weapons.

The administration does not want to spend all this money on nuclear weapons. It is $165 million above the House appropriations level, and $22 million above the House Armed Services Committee authorized level.

Even if we want to go ahead and do a whole lot of development, testing, and research on new nuclear weapons, even if we want to do that, let us at least just stick with what the administration requested. This goes far above what even this administration requested.

The issue is very simple, Mr. President. It is a very, very simple issue. Do you want to spend even more money than requested by the administration for research, development, and testing of new nuclear weapons? Do you want to spend $118 million more, way above what even the administration requested? Or do you want to move towards what the administration requested to clean up? That is the choice we have now on the Glenn-Exon-Wirth amendment.

The PRESIDING OFFICER. The Senator from Ohio controls 11 minutes. The Senator from Louisiana controls 17½ minutes.

Mr. GLENN. Mr. President, let me respond in brief to the comments of the distinguished Senator from Louisiana and the distinguished Senator from New Mexico.

The distinguished Senator from New Mexico got his $200 million in there, and I agree with that and that is fine. But what we found is that the account is $230 million above the request by DOE, and that is the reason we only pulled $35 million out of that account. So we left about $195 million out of what the Senator from New Mexico says he was able to get into that account to benefit the laboratories. So I do not see that we have disturbed this arrangement that he had.

As far as the comments by the distinguished floor manager for the committee, in this cleanup account we are going to need somewhere upwards of $100 billion over a 20-year period. It has been estimated to be somewhere between $100 and probably $125 or $130 billion, which means we are going to average over that period something on the order of $5 to $8 billion, for that whole 20-year period to effect a cleanup. And the Senator from Louisiana is absolutely correct, you cannot throw money at it and make it go away. But you also cannot subtract money from it and make it happen either, I will tell you that.

What we have seen happen is we have been on a steady buildup of cleanup funds that we got started about 4 years ago after much effort. And now, for the very first time, we are talking about cutting those funds, reducing them for the very first time. And that is the wrong signal to send.

Reference was made to the savings and slippage account, but that is not in the DOE request, as I understand it. The Senator from Colorado has already mentioned the $900 million that was originally requested for EM that was not put in, that was taken out before it ever got out of DOE.

But the point I want to make is the money for the laboratories is in there, that $200 million. We took $35 million out of the $230, so you still have about $195 million left. So I do not really see we have disturbed that in any way at all.

What we are talking about is funds being reduced for the very first time. DOE requested $3.75 billion, and it was cut to $3.64 billion. We are trying to restore that and come up to the figure the House Armed Services Committee has.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio has 8 minutes, 14 seconds. The Senator from Louisiana controls 17 minutes, 37 seconds.

Who yields time?

Mr. JOHNSTON. Mr. President I yield 3 minutes to the distinguished Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 3 minutes.

Mr. DOMENICI. Mr. President, I see the distinguished Senator from Colorado on the floor. I heard the discussion before the Senate by my distinguished neighbor to the north, and I think he said that we ought to put more money in cleanup rather than use it to build more nuclear weapons. Again, I want to suggest that of this $118 million add-on, $35 million is coming right out of the three nuclear deterrent laboratories. If we continue to reduce the funding for the national laboratories, then not only will we not be able to clean up Rocky Flats, which is of extreme importance to my friend, but the scientists from the laboratory in northern New Mexico are the ones designing the new facilities so that they will indeed be safe and clean, and, indeed, they are designing the next generation so there will never be another Rocky Flats as there was a few years ago.

We are told in the letter which I put in the RECORD, by not only that lab director but the one in California at Livermore and the one at Sandia, that if we do not raise the level of funding for their research, development, and training to keep their core scientists, they are going to lose their capability to attract and do the kind of job they have been doing.

So I believe funding the laboratories is funding cleanup because, indeed, they are the scientists who are going to enable us to do more cleanup in better ways with less money and build safer facilities and, indeed, safer nuclear weapons in the future.

Having said that, let me just make one additional comment. The nuclear laboratories now, so everyone will understand, their mission is not going down. But, of late, there is a new mission being added to these deterrent laboratories. It has to do with safety of the arsenal on nuclear weapons. A panel established by the U.S. House Armed Services Committee, the Drell Commission, has just reported, and they indicate that starting very soon the deterrent laboratories are going to have a brand new safety mission. It is not safety of the new weapons—they are doing that—but safety of the entire arsenal.

As peace breaks out and you expect long periods of time with extremely safe weapons, the report indicates that a great deal of real science, real math, real physics, real machinery is going to be needed for them to be able to do that job. So, it seems to the Senator from New Mexico that this is a basic question that goes as follows, and I hope the Senate will listen to this very simple explanation.

The Department of Energy estimated that when the year ends, there would be $140 million of the cleanup fund unused; $140 million. The committee, under the leadership of Senator JOHNSTON and Senator HATFIELD, used $108 million of the $140 million. They should use it. Why should you leave it there when the Department of Energy is telling you it is not going to be used? Surely it would be nice to leave it there so they will have more at the end of the year, but it was used for things the committee chairman and ranking member thought were needed for these United States. That is the issue.

Senator GLENN wants to put it back. They will have more unused at the end of the year.

The PRESIDING OFFICER. The time of the Senator from New Mexico has

expired. The Senator from Ohio has 8 minutes, 40 seconds.

Mr. GLENN. I yield myself what time I may require.

Facts do not back up what the Senator talked about because DOE wanted an extra $900 million this year. They can use it. They wanted an extra $900 million.

If the distinguished Senator from New Mexico—could I have the attention of my colleague, please, just a minute? I want to point out something. We did not cut my colleague's laboratory money. There was $230 million above the administration request, $200 million of which was yours and would go to the laboratories. We only cut $35 million out that account. We did not go into it and cut the laboratory money.

So the laboratory money that my colleague received, wherever it came from—I am not aware of that, my colleague explained it a little while ago—it is still in there. We have not touched that, except for $5 million. We could yield that back if that is a real problem.

The Department requested more money for EM. We knew they could use it and we did not touch the lab money. You still have your $200 million in there. We cut out of weapons production and surveillance $83 million and added that to the $35 million above, and that is where our $118 million came from. So we do not disturb your lab money.

Mr. DOMENICI. If the Senator will yield on our time, I do not have the same arithmetic. I have it as $212 million from which you take $35 million. I do not care to argue about it, but the point is all of that add-on, whether it is $212 million or whatever, came from the Department of Defense account transferred to this bill.

So, to the extent my colleague is taking that money out, he is taking it and it was transferred there for that purpose.

Mr. WIRTH. Will the Senator yield?

Mr. GLENN. Two minutes to the Senator from Colorado.

Mr. WIRTH. On that front, the distinguished Senator from New Mexico, with whom I have worked on so many issues, and I am sorry that we differ on this one, the Senator from New Mexico said you have to have this money to clean up Rocky Flats and $35 million is cut from cleaning up or building the systems for cleaning up Rocky Flats. It is not true. As the Senator from Ohio pointed out, this $35 million is coming out of the weapons research, development, and testing.

Second, the distinguished Senator suggested that we have to spend a lot more money on safety. Let us look at the reality of that. We have cut the B–90. We have cut the SRAM T. Canceled two weapons programs, hurray. That is a good thing. The cold war is over. So why do we need tens of millions of dollars of additional money for safety programs.

Finally, assuming that the Glenn amendment passes, what are we left with?

We are still left with $178 million above the administration's own request. I have not heard those figures refuted anywhere. The research, development and testing account of concern to the Senator from New Mexico and his laboratories will still be $178 million above the administration's request. Even after the Glenn amendment is agreed to, we are still $178 million above the administration's own request. That outlines just what this is all about.

Do we want to spend even more above the administration's request on new weapons development, or do we want to start to meet the administration's request and clean this up? That is the choice.

The PRESIDING OFFICER. Time allocated to the Senator has expired. The Senator from Louisiana controls 13½ minutes.

Mr. JOHNSTON. Mr. President, I yield myself 2 minutes. The question was asked by the distinguished Senator from Colorado why do we need money for R&D on weapons when, in fact, we are canceling weapons? It is a very good question. The answer, though, Mr. President, is really pretty straightforward.

First of all, some of our weapons were unsafe. For example, the Shram A, which was a missile we used to have on all of our B–52 planes had in effect, it did not have insensitive high explosive as the trigger for the nuclear weapons and, in fact, there was a tremendous danger from the Shram A in case of an ordinary fire because the fire could detonate the explosive and that, in turn, would not result in a nuclear explosion but it would result in an ordinary explosion which, in turn, could deliver radioactive nuclear material over a wide area.

So part of the R&D fund presently needed is not only in the follow on to the Shram A to find an insensitive high explosive solution to that problem in that weapon, but in many other weapons, in fact, in every set of nuclear weapons.

Mr. WIRTH. Will the Senator yield?

Mr. JOHNSTON. Yes. Let me first talk about some of the other areas.

So we have a cold complex of R&D problems there.

Second, we also have environmental problems in the production of nuclear weapons. So part of the production money is for environmental compliance in the production side which does not come under Leo Duffy's program. It comes under the production side, but it is, nevertheless, for environmental compliance. Those are two illustrations of why we need the money. I yield to the Senator.

Mr. WIRTH. I appreciate the distinguished Senator yielding and I appreciate his concern for it. When I mention the B–90 and the SRAM T, I understand the other safety issues being worked on. But the original appropriation and authorization given to the Department of Energy assumed their people would be building the B–90 and SRAM T. Where have all those people gone? What are they doing? We canceled two programs and yet we have increased the amount of research, development, testing and production to go on.

We canceled the SRAM T and B–90, but we need more money? I do not understand.

Mr. JOHNSTON. We are talking about the R&D. We did not need the R&D in the SRAM T. Before they were canceled, they were ongoing programs, well tested, well developed. What we needed was R&D to test follow-on R&D programs to those programs that are canceled.

In other words, you do not need a research program to produce a Mercury Marquis automobile like we have on the lot out there. They are already ongoing. We need a research program to produce the car for the year 2000, and that, in effect, is why we need R&D money by virtue of the cancellation of ongoing programs.

Mr. President, I think we could perhaps shorten the time, unless the Senator would like to use all of his time.

Mr. GLENN. I want to yield 3 minutes to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. ADAMS. Mr. President, I thank the Senator from Ohio and I rise to support strongly the Glenn amendment.

In the State of Washington, we have had the experience of having in our State the largest nuclear waste dump in the free world. It may be the largest one in the entire world. We simply are not certain of the Soviet Union. We are not talking about optional activities in the cleanup that was mentioned by the Senator from Ohio. We are talking about the Federal Government living up to its environmental laws, living up to the milestones that it has agreed to with the State of Washington, which it is not doing.

At Hanford alone, one analysis indicates the environmental accounts are nearly $400 million below what is needed by these laws. For this reason, which was mentioned by the Senator from New Mexico, there was an additional amount of money that was not spent this year. That is why I have introduced the trust fund bill which would provide that moneys are carried over and kept in these trust funds just as we do with the highway trust fund, so these long-term accounts are available for the cleanup at Rocky Flats

and at Hanford and at the other sites in the United States that have been contaminated by the U.S. Government.

This money should be kept and would be kept and will be kept. I am hopeful that the Armed Services Committee will come forth with this language in their bill.

I will close my remarks by saying this. This marks a shift at the Hanford site from production of weapons to cleanup of weapons and a new technology and a new future. There are more people employed at Hanford now than there were when we started this program 5 years ago. Those people are employed in new techniques, and I support the laboratory concept as indicated by the Senator from New Mexico.

We want a vitrification plant built at Hanford; we want the development of abilities to handle nuclear waste which we do not have now. We want to develop this so that it can go to other places in the country and assist them. This can be done with a trust fund account and it should be there. We do not want to go back to a production account. The production accounts have now been stabilized and are being shifted into environmental cleanup.

Mr. President, I am here tonight to speak strongly in favor of the Glenn amendment under consideration tonight.

There is absolutely no doubt that the cleanup of Department of Energy sites is being dramatically shortchanged. Last year, a reputable trade magazine said that the funding necessary for cleanup at DOE installations was halved by the administration in its final budget submission. Just this year, memos have been leaked suggesting that hundreds of millions of dollars were lopped off of the budget needed to meet environmental laws at DOE installations.

We are not talking about optional activities, here; we are talking about the Federal Government living up to the law.

The Glenn amendment would shift funding into this much-needed account. We owe it to our country, and to all of those who are still being exposed to the contaminants of the nuclear arms race, to vote in favor of this amendment.

I intend to do so.

The PRESIDING OFFICER. The time allocated to the Senator has expired.

Mr. ADAMS. I hope the Glenn amendment will be adopted and that we will clean up the mess that has been left by a destructive program.

The PRESIDING OFFICER. The Senator from Ohio controls 1 minute, 55 seconds.

Mr. GLENN. How much time on the other side?

The PRESIDING OFFICER. The other side controls 9 minutes, 30 seconds. Who yields time? The Senator from Louisiana controls 9½ minutes. The Senator from Ohio has 1 minute, 50 seconds.

Mr. JOHNSTON. Mr. President, does anyone on my side of the aisle want to be recognized?

Mr. President, I will repeat quickly the very simple argument that we have made, which is that between 1988 and 1992, we have quadrupled—that is a 400 percent increase in environmental cleanup. Mr. President, it is more money than Leo Duffy, who is the Assistant Secretary for Environmental Cleanup, can sensibly spend.

The inspector general of the Department of Energy said that this is the No. 1 account to watch for fraud, waste, and abuse because there are dollars, like my former colleague Russell Long used to talk about getting on top of the Washington Monument and throwing the dollars out and they will do some good out there somewhere.

Mr. President, this is one of the greatest priorities that the country has, to clean up nuclear waste. But quadrupling the money in a 4-year period ought to be enough. And, in fact, it is enough; and, in fact, it is more than they can spend right now, Mr. President. As I pointed out, we have almost a half year's money which is unspent and remains in the account; almost a half year's money—$421 million were in uncosted balances, that is work not performed. Altogether it amounts to $1.327 billion, which is the equivalent to a half a year's funding.

That is simply it, Mr. President. We believe we have as much as they can use, more than they can sensibly use.

If Leo Duffy can spend what we have in here, he will be a great Federal bureaucrat, he will be a wonderful Assistant Secretary, because it is a huge challenge to spend the $3.6 billion which we have provided.

I have made it clear, Mr. President, I believe that the savings in slippage, the $108 million, which was an account provided here, was not raiding this account but was a lesser reduction for savings and slippage than we had last year. It is a much lesser percentage than we had last year. It was much less than the Department of Energy recommended last year. It is a much less percentage than we have for the Corps of Engineers or our other accounts.

It is an ordinary budgetary function to have savings and slippage because of delays, because of weather, because you cannot get a permit. It is an ordinary accounting practice, Mr. President. It is not raiding this account.

So, Mr. President, at the appropriate time I will move to table this amendment, and not because we want less money for this very high priority but because we believe there is enough money in here, in fact more than we can sensibly use. So while I share the goals of the Senator from Ohio and the Senator from Colorado, we believe the budget as presented accomplishes those goals.

The PRESIDING OFFICER. The Senator from Ohio has 1 minute, 45 seconds.

Mr. GLENN. I yield myself such time as I may require.

Mr. President, a 400-percent increase when you start at a low amount does not amount to that much. What we need is somewhere between $5 to $8 billion a year. We were up to $3,705,000,000. This year is cut for the first time to $3,064,000,000. That sends exactly the wrong signal.

As far as the concerns of the Senator from New Mexico, we leave his $200 million, or almost that, not quite, but almost the $200 million he wanted in here for the laboratories. All we cut out was basically the excess over that. That is what we had agreed to in a colloquy we were going to have earlier today.

So, Mr. President, this is something I feel very strongly about. We should not cut EM funds.

I yield the remainder of the time to the Senator from Colorado.

Mr. WIRTH. Mr. President, the basic issue before us is do we want to spend more money on nuclear weapons programs than even the administration requested or do we want to help clean up a problem which is out there getting worse and worse and worse, meeting the request made by the Department of Energy. That is the simple issue that we have. Is the cold war over or not? Are we going to clean up for future generations or are we going to spend more than even this administration requested for research, development, and testing?

The PRESIDING OFFICER. The Senator from Louisiana has 5 minutes, 50 seconds.

Mr. JOHNSTON. Mr. President, I will not use my entire 5 minutes.

Mr. President, as stated by the Senator from Colorado, you would think that what our committee proposes is to take money from waste cleanup and put it to build more nuclear weapons. Mr. President, I can assure you that the distinguished Senator from Oregon [Mr. HATFIELD], and I would propose no such thing.

We are not trying to build new nuclear weapons. To the contrary, we are trying to make those that we have safer. For example, we have here $123 million for verification and control. That is not building new nuclear weapons, Mr. President. That is ensuring that those we have in stock can be operated safely, can operate as they are supposed to operate. It is a very expensive program. Production and surveillance—surveillance is seeing that the tritium levels are proper, and indeed we are going to have to trade tritium in some weapons. In other words, as we take the B–90, for example, out of production, we are going to have to take the tritium from it and put it in other weapons because, as my colleagues

know, the half-life of tritium is about 81 years, so that it is a rapidly decaying nuclear element but an essential nuclear element.

In any event, Mr. President, there are a large number of items in this R&D account having nothing to do with building new nuclear weapons but, rather, making those we have safer, more reliable, and it is absolutely essential that we do this work. In any event, Mr. President, we did not take the money out of this cleanup account to put in that account. To the contrary, those were two separate functions.

Mr. President, I know that if my colleagues have been listening to this debate and have kept from falling asleep, not because it is not important but because when you are talking budget it is a very complex thing, let me just assure you of this one simple fact. We have not taken needed money from nuclear cleanup in order to build nuclear weapons. It simply has not been done. To the contrary, we have put more money in the cleanup of these plants than can possibly be used, and in any event we have not taken any money out of that account to put in the production of nuclear weapons.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Ohio has 15 seconds remaining.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. GLENN. I yield back, and ask for the yeas and nays.

Mr. JOHNSTON. Mr. President, I move to table the amendment and ask for the yeas and nays.

Mr. GLENN. I ask for the yeas and nays on tabling.

The PRESIDING OFFICER. The yeas and nays are requested on the motion to table.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—54

Bentsen	Domenici	Moynihan
Bingaman	Durenberger	Murkowski
Bond	Ford	Nickles
Breaux	Garn	Packwood
Bryan	Gramm	Pressler
Bumpers	Grassley	Reid
Burdick	Hatch	Rudman
Burns	Hatfield	Sasser
Byrd	Heflin	Seymour
Chafee	Helms	Shelby
Coats	Hollings	Simpson
Cochran	Johnston	Smith
Conrad	Kassebaum	Specter
Craig	Lott	Stevens
D'Amato	Lugar	Symms
Danforth	Mack	Thurmond
DeConcini	McCain	Wallop
Dole	McConnell	Warner

NAYS—43

Adams	Gore	Mitchell
Akaka	Gorton	Nunn
Baucus	Graham	Pell
Biden	Harkin	Riegle
Boren	Kasten	Robb
Bradley	Kennedy	Rockefeller
Brown	Kerrey	Roth
Cohen	Kerry	Sanford
Cranston	Kohl	Sarbanes
Daschle	Lautenberg	Simon
Dixon	Leahy	Wellstone
Dodd	Levin	Wirth
Exon	Lieberman	Wofford
Fowler	Metzenbaum	
Glenn	Mikulski	

NOT VOTING—3

Inouye	Jeffords	Pryor

So the motion to lay on the table the amendment (No. 572) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BASE REALIGNMENT AND CLOSURE

Mr. BOND. Mr. President, I rise to discuss one provision that was included during the full committee markup of this bill.

This was the amendment offered by Senators NICKLES, HOLLINGS, HARKIN, and myself to prevent the Corps of Engineers from spending any of their funds to implement a reorganization plan—unless the plan was enacted following normal congressional procedures.

This of course is aimed specifically at the Commission on Base Realignment and Closure which has decided to include an ultimatum on corps reorganization in their final report.

I have previously spoken to Secretary Cheney, written to the Commission, as well as cosigned a letter to the President urging that the corps plan not be included in the base-closing package.

I believe the BRAC has overstepped its bounds, and I believe a court challenge of their final product would prove successful. However, our amendment will also accomplish this goal and I hope it is retained.

My major concern about the Base Closing Commission's potential decision to include the Army Corps of Engineers reorganization plan in the base closing package is that the Commission does not have the expertise adequately to review the proposal.

While it is my belief that the closing of military bases will have some effect on the corps mission, the need for the Corps of Engineers to regulate our waterways, mitigate flood damage, and aid in Superfund cleanup has not diminished. Tying the restructuring of a predominately civilian-run and -oriented agency to the process of redefining our defense needs is a mistake. These two issues should be considered separately.

However, I do believe that reductions and reforms can be made in the corps. In particular the large civilian bureaucracy that has been built up should be reviewed. Thus I do not see our actions to block the BRAC action meaning anything other than we believe Congress—not the BRAC should review the corp plan.

Clearly the corps proposal should be reviewed by those with the expertise and understanding of Superfund, swampbuster, water quality, and wetlands issues. Therefore, Mr. President, I want to thank the committee for accepting our language, and hope that it will be preserved in conference.

Mr. President, I wish to spend a few moments discussing just one of the many issues I don't believe the corps proposal adequately reviewed. The Kansas City district is only one of the two districts which form the Corps National Design Center for the Superfund and Defense Environmental Restoration Programs—the programs which do the cleanup of the hazardous and toxic wastes in both civilian and DOD facilities.

In addition, the KC district's expertise has made it the center for handling the termal destruction of explosive wastes—obviously a key problem in many base cleanups.

The Kansas City district office has put together an excellent team of environmental scientists and engineers who then provide design and construction services for the EPA whenever the Federal Government is the lead agency, or to State agencies if they are the lead. Their area of responsibility now covers 50 percent of the Nation, and Superfund projects they are working on currently include sites in New Jersey, New York, Arkansas, Washington, Idaho, Louisiana, Oklahoma, and Kansas.

Clearly the KC corps has developed a special niche, but from everything I and the KC working group have been able to ascertain, the corps has not factored in the effects of a breakup or transfer of parts of this team. And I certainly do not believe the Base Closing Commission is designed to address these types of issues.

At a minimum, closing the Kansas City office will cause delays and confusion in removing hazardous and toxic

wastes from cleanup sites. I believe that is too high a price to pay.

Mr. President, the employees of the KC corps office, as well as the community of Kansas City are more than ready and willing to address the issues raised by the corps plan—we only ask that we be given the chance to present our case, and in a forum which understands all the issues involved. That is what our amendment will do, and that is why it is so important that it be retained.

I thank the managers and yield the floor.

Mr. DOLE. Mr. President, I wonder if I might inquire of the majority leader the intentions of the managers on this bill for the remainder of the evening.

Mr. JOHNSTON. Mr. President, if I may respond to the distinguished minority leader, we would like to be able to work this out to have no more votes tonight if we can get all the amendments locked in for tomorrow so that we will know what work we have to do. Otherwise, we may have to plow ahead tonight. I hope we can get at least an identification of the amendments and exclude the others. I think there are a few amendments lurking. I wonder if Senators might be willing to identify their amendments and make a list of them and have all other amendments not in order, and then we could put it off until tomorrow morning and start at 9:30 sharp.

Does anyone have an amendment?

Mr. FOWLER. I have an amendment.

Mr. JOHNSTON. The Senator from Georgia, Mr. Fowler; and that relates to?

Mr. FOWLER. It is cosponsored by the Senator from Vermont, Mr. JEFFORDS. We have one on renewable energy.

Mr. DOLE. If the manager will yield, I think I can just submit a list of amendments. We have kept track of not many. Some may not be offered, but at least they would be in the loop.

Mr. JOHNSTON. Senator BUMPERS, did you have an amendment?

Mr. BUMPERS. Mr. President, I do have an amendment dealing with the superconductor super collider.

Mr. JOHNSTON. And we have an amendment by Senator KENNEDY.

Mr. HATFIELD. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. HATFIELD. Mr. President I have a list here that are all that I know of from the Republican side. You can just copy from them and announce them if you wish.

If the chairman will yield, I would just like to enumerate: Mr. STEVENS has one; Mr. D'AMATO has one; Mr. KASTEN has one; Mr. NICKLES has two; Mr. CHAFEE has one; and Mr. WALLOP has two.

Mr. JOHNSTON. And I believe Senator SPECTER and Senator WOFFORD have an amendment.

Mr. HATFIELD. And Senator DOLE has one.

Mr. DOLE. It may or may not be offered.

Mr. HATFIELD. And possibly Mr. GARN may have an amendment to Mr. FOWLER's amendment.

Mr. JOHNSTON. And on our side of the aisle there is Senator KENNEDY, Senator BUMPERS, and Senator FOWLER.

Mr. KENNEDY. Mr. President, I believe we can work ours out.

Mr. JOHNSTON. Yes, I believe we can work that out. But I wanted to preserve it on the list.

Does Senator WIRTH have an amendment?

Mr. WIRTH. Yes.

Mr. JOHNSTON. And that relates to?

Mr. WIRTH. Enriched uranium.

Mr. JOHNSTON. Are there any other amendments on our side of the aisle?

Mr. MOYNIHAN. Mr. President, Senator D'AMATO and I have two amendments that I believe will be accepted.

Mr. JOHNSTON. Are there any others on our side of the aisle?

Mr. President, I ask unanimous consent that there be no further rollcall votes—I guess the majority leader will do that—that the only amendments in order for this bill will be as follows:

An amendment by Senator STEVENS relating to Bethel, AK, Corps of Engineers construction;

Two amendments by Senators D'AMATO and MOYNIHAN relating to Onondaga Creek in New York and to the Montauk Point in New York, a Corps of Engineers project;

Senator KASTEN, relating to a State road and Ebner Coulees project. It is a Corps of Engineers project;

Two Nickles amendments relating to the Corps of Engineers' fee increases and the Oklahoma City riverfront project;

A Chafee amendment relating to a study and technology demonstration project at Cranston, RI. That is a corps project;

Two Wallop amendments, one relating to Shoshone irrigation project and the second relating to the Buffalo Bill dam. Those are Bureau of Reclamation projects;

A Specter and Wofford amendment relating to Wyoming Valley;

A Dole amendment;

A Kennedy amendment relating to I believe it is a Corps of Engineers project;

A Bumpers amendment relating to the superconducting super collider;

A Fowler and Jeffords amendment relating to renewable energy;

And a Wirth amendment relating to enriched uranium.

Mr. HATFIELD. With a possible amendment in the second degree to the Fowler amendment, by Mr. GARN.

Mr. JOHNSTON. A possible amendment in the second degree to the Fowler amendment, by Mr. GARN. And a possible Johnston amendment just in case we have left anything out. I further ask unanimous consent that no nongermane amendment——

Mr. HATFIELD. Will the Senator yield? And a possible amendment in the second degree by Mr. GRAMM to Mr. BUMPERS.

Mr. JOHNSTON. Yes, and a possible second degree amendment by Senator GRAMM, of Texas, to the Bumpers amendment; that, other than that, no second degree amendments be in order unless agreed to by both managers on both sides of the aisle and that no other amendments other than those enumerated be in order.

The PRESIDING OFFICER. Is there objection?

The Senator from New Jersey.

Mr. BRADLEY. Mr. President, reserving my right to object on two Wallop amendments, I would like to reserve the right to unlimited second-degree amendments on those two amendments. They deal with Bureau of Reclamation projects.

Mr. JOHNSTON. An unlimited number of second-degree amendments?

Mr. BRADLEY. An unlimited number.

Mr. JOHNSTON. I amend the request by reserving to Senator BRADLEY the right to amend in the second degree, the Shoshone irrigation project and the Buffalo Bill dam project amendments to be proposed by Mr. WALLOP, without any limitation on the number of second-degree amendments.

Mr. GARN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Utah may proceed.

Mr. GARN. Mr. President, I hesitate to object but this is an amendment which was just shown to me 2 or 3 minutes ago. I had no time to examine it or take a look at it, but to see enough that we are cutting out any funds in this area, nuclear power available for space exploration initiative. That is a priority of the President and this Senator. We zeroed funds for it last year.

Normally there is no person on this floor who is more cooperative in trying to expedite a schedule, but if the Fowler amendment stays in, with this little bit of examination on it, I will object and do object at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. JOHNSTON. Mr. President, did the Senator object to the unanimous consent?

Mr. GARN. Yes, I did, unless the Fowler amendment is withdrawn.

Mr. JOHNSTON. Would the Senator withhold on that? We did not ask for a time agreement, simply that the amendment be in order—this whole list and no others be in order. So if the Senator from Utah wishes to filibuster he is certainly free to do so or amend in the second degree if he wants to amend the request. But what we would

like to do is lock out all those other amendments that people might think of overnight like abortion or busing or whatever else, so we can finish this bill.

Mr. GARN. The Senator from Utah understands that, but it is a lot easier and quicker to object to this one amendment, which could be deleted rather than possibly having a filibuster.

Mr. JOHNSTON. I suspect he will be able to do that tomorrow. In other words, my colleague will be able to filibuster this amendment tomorrow.

Mr. GARN. I believe the chairman did not understand that it requires a lot less talk to say I object than it does to filibuster an amendment. We could solve this problem rather easily by simply not including the Fowler amendment as part of the unanimous-consent agreement and letting the rest be listed.

Mr. JOHNSTON. Mr. President, we really need to get this bill dispatched. I hope my two dear friends can come to some accommodation on this. I submit all Senator FOWLER is asking is the right to submit the amendment. The Senator can amend it, he can talk it to death.

Mr. HATFIELD. If the chairman would yield, I would like to only suggest all of us are here to do the business of the Senate. If we cannot get this kind of unanimous-consent agreement, I hope the leadership would keep us in session and let us proceed to handle these amendments as they come up, one by one. If there is a rollcall required, so be it.

I feel otherwise we just go on and on and on, on these bills. It is unnecessary.

I hope the leadership would consider a late session tonight.

Mr. JOHNSTON. Mr. President, I think we only have a couple of big amendments and I think if we stay a lot of these will disappear.

Mr. DOLE. Will the manager yield?

Mr. JOHNSTON. I hate to ask Senators to stay but I think the work will probably be shortened in the long run if we do.

Mr. DOLE. I think a lot of the Members have already disappeared. They were under the impression there would be no more votes. Maybe not rightfully, but at a quarter of 11, we have only been on this bill a little over 3 hours, not quite 3 hours. It is $21 billion.

I wonder if we expect to finish it before morning.

And if the Senator from New Jersey wishes to offer unlimited second-degree amendments I would interpose an objection on behalf of Senator WALLOP.

Mr. JOHNSTON. Mr. President, we are really not asking for very much. We are not asking anyone to surrender his right to filibuster. All we want to do is lock in these amendments because, believe me this bill can expand and expand and expand if we do not try to lock these things in tonight.

I ask Senators who do not just love staying here at night, to help us out because it will be another night we have to stay here. We have to go back on the crime bill tomorrow. People will be able to think of still more amendments.

This is a must-pass appropriations bill. If we do not lock in these amendments tonight, then by tomorrow it will expand. There will be another 30 amendments. By the time we finish with it, it may take a week. If we can, let us lock these in tonight since we are so close. Why do my two friends not get together and figure this thing out and let us move on.

Mr. SIMON. Mr. President I originally planned to have an amendment on this measure to increase the appropriation for desalination research. But the measure came up quickly this evening and we have not had a chance to prepare adequately for the amendment.

What is clear is that desalination research must become much more of a priority for this Nation and for other nations. Right now California, with 840 miles of shoreline, faces serious water shortages and every State in the Union will pay higher prices for fruits and vegetables because of this California water shortage. Florida faces a similar problem. And Florida has 1,800 miles of shoreline.

We are living in a world of increasing population and declining resources of water for drinking, agricultural, and industrial purposes.

We now depend on less than one-half of 1 percent of the world's water supplies for these purposes. The rest of the water of the world is salt water.

Five of us in the Senate were in the Middle East in December and leader after leader in the Middle East spent much more time talking to us about water than about oil. A recent issue of *Foreign Policy* magazine came out with an article titled "Water Wars" in which the author states that the next war in the Middle East is more likely to be over water than land.

My problem is this, and I address this question to Senator JOHNSTON: I have an amendment prepared to provide increased funding to the Bureau of Reclamation for desalination research, but frankly at this late hour, without adequate contact with my colleagues, it could be difficult. But if I see no alternative I will propose my amendment. But if I could be assured by the chairman of the subcommittee that he will make every effort to secure at least $5 million for desalination research in the Bureau of Reclamation conference with the House, I will not propose the amendment.

Mr. JOHNSTON. I agree with the Senator from Illinois on the importance of desalination research and I wish I could quickly accommodate an amendment this evening. But to do it hastily could do an injustice to other good causes. Obviously I cannot guarantee the Senator from Illinois that we can find the $5 million for the desalination program of the Bureau of Reclamation but I can assure him that I will make every effort to accommodate this very real need.

Mr. SIMON. On the basis of that assurance, Mr. President, I will not offer my amendment.

Mr. JOHNSTON. Mr. President, while we are trying to work out this time agreement, I think we are ready to move on to the next amendment. I urge whoever is ready, to come up with an amendment.

Mr. BUMPERS. Mr. President, I wonder if the distinguished floor manager will yield for a question?

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Would the distinguished floor manager respond to a question if he knows the answer? There is a reservation for a second-degree amendment by Senator GRAMM—I assume it is of Texas—to the super collider amendment. Could the Senator tell us the nature of that?

Mr. JOHNSTON. No. I do not know the nature of either the first-degree or the second-degree amendment.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I have two amendments on behalf of myself and Senator MOYNIHAN. One is dealing with Onondaga Lake. It is a technical correction to comport with a request of the Army Corps of Engineers. There is no money. It is a cleanup project of a lake.

The other concerns a Montauk lighthouse, which was the first Army Corps of Engineers project undertaken by a young general, General Washington, I believe. It would insert and provide $225,000 in funds appropriated by the Secretary of Army acting through the Chief, Corps of Engineers, to continue a reconnaissance study for Montauk Point.

The PRESIDING OFFICER. The Chair would point out to the Senator from New York the Senator from Louisiana still retains the floor.

Mr. D'AMATO. I ask if my distinguished colleague from Louisiana will yield?

Mr. JOHNSTON. Mr. President, I wonder if the Senator from New York would agree to our accepting the amendment on Montauk Point. As far as the Onondaga amendment we will be in conference and we would like to work on it in conference but not accept it at this point. Would that be agreeable to the distinguished Senator? We will look at this problem sympathetically in conference, but I am advised by staff that there is a problem in accepting the amendment at this point.

Mr. D'AMATO. One out of two at this hour in the evening is not bad. I am wondering if I might ask that we keep the list open for the purposes of considering Onondaga. There is no money involved. It is a technical correction which the Army Corps of Engineers pointed out to us. If we could do that maybe by tomorrow, why, we might be able to dispose of it rather than put it off indefinitely.

Mr. JOHNSTON. We are not asking for any unanimous consent to lock it out at this point. But I would request that the Senator withdraw Onondaga.

Mr. D'AMATO. I withdraw Onondaga.

Mr. JOHNSTON. In that case, Mr. President, on this side, we are prepared to accept Montauk.

Mr. HATFIELD. We are prepared to accept it also.

The PRESIDING OFFICER. Will the Senator from Louisiana relinquish the floor so the Senator from New York can proceed?

The Senator from New York is recognized.

AMENDMENT NO. 576

(Purpose: To make funds available to continue the reconnaissance study for Montauk Point, New York)

Mr. D'AMATO. Mr. President, I ask that the amendment on Montauk that has been submitted to the desk be considered.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for Mr. MOYNIHAN (for himself and Mr. D'AMATO) proposes an amendment numbered 576.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 16, after "99-662", insert the following: ": *Provided further*, That with $225,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the reconnaissance study for Montauk Point, New York, to be derived by transfer of funds otherwise made available to conduct a study of Onondaga Lake, New York".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 576) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I wonder at this point if the Senator from Arkansas [Mr. BUMPERS] would be prepared to lay down his amendment and begin the debate on it and go for such time as he feels like going tonight, come back and commence it first thing in the morning?

Mr. BUMPERS. Mr. President, I am not prepared to offer that amendment right now.

Mr. JOHNSTON. I wonder if the Senator wants to offer it tomorrow?

Mr. BUMPERS. Yes.

Mr. JOHNSTON. Mr. President, I do not want to make Senators offer their amendments at a time when they do not want to. I would say we are ready to do business. I hope Senators will not keep us in quorum calls all day tomorrow while we are trying to get this bill done. This is a must-pass bill.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, while there are deliberations going on, I wonder if the majority leader will give us some idea as to what time he proposes to vote on cloture tomorrow. Normally it would be 1 hour after we come in, but I assume the vote would not occur then by unanimous consent. I am curious. If we get cloture on that bill then, of course, we are on that bill until we finish it; is that not correct?

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I will later this evening, at the conclusion of the consideration of this bill, seek consent to have the vote on the motion to invoke cloture at 2 p.m. tomorrow. As far as I know, there is no objection to that. We have discussed it with a large number of Senators and have had no objection.

It is my understanding from a previous discussion that if cloture is invoked, that since the agreement giving the majority leader authority to proceed to this bill permitted it irrespective of the provisions of the rule dealing with cloture, that I would then have the option to either proceed to completion of the crime bill, cloture having been invoked, or after which the energy appropriations bill would recur or to complete action on the energy bill after which the crime bill would recur.

Mr. BUMPERS. Is the majority leader saying he has received unanimous consent for that or will seek it?

Mr. MITCHELL. Has received it.

Mr. BUMPERS. You have received it?

Mr. MITCHELL. Yes, previously.

Mr. BUMPERS. And it is the majority leader's present plan then after cloture is voted either way to continue with the energy and water bill?

Mr. MITCHELL. No, it is not.

Mr. BUMPERS. I am sorry. I misunderstood the majority leader.

Mr. MITCHELL. What I stated is I believe I have the authority to elect to proceed with either bill if cloture is invoked. I have not made a decision on which bill to then proceed with and will not make one until tomorrow and have a chance to consult with the Republican leader and the managers on both sides of both bills, the crime and energy bills.

Mr. BUMPERS. Out of curiosity, Mr. President, I labored under the assumption that once we vote cloture, then we are on that bill until it is finished unless a unanimous consent agreement changes that.

Mr. MITCHELL. Mr. President, if I might respond, the unanimous-consent agreement with respect to the energy and water appropriations bill explicitly states in the concluding clause "notwithstanding the provisions of rule XXII."

Mr. BUMPERS. I see.

Mr. MITCHELL. Therefore, the authority exists to either proceed with the crime bill after cloture has been invoked, if cloture is invoked, or to move to this bill. I have not made a decision and, obviously, will want to consult with the managers of this bill and the crime bill and the Republican leader before making such a decision.

Mr. BUMPERS. I thank the majority leader.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Mr. President, I would like to make some brief comments on the question of resuming plutonium operations at the Rocky Flats nuclear weapons plant near Denver—an issue of considerable importance to me and some 1 million Coloradans who live downstream and downwind from that Department of Energy facility. I then hope to engage the distinguished chairman of the Subcommittee on Energy and Water in a colloquy on that subject.

The bill before the Senate contains full funding for the DOE request for $478 million for fiscal year 1992 to support resumption of activities at Rocky Flats. This is in addition to the fiscal year 1991 supplemental appropriation of $283 million for Rocky Flats restart which we passed in the Senate only months ago—on top of the fiscal year 1991 budget of $550 million. We are in the process of spending over $1 billion to get this 40-year-old facility ready to resume plutonium operations in the Denver metropolitan area.

By what calculus of national interest are we spending these enormous sums? I have serious doubts about this use of taxpayers dollars, doubts about the safety of resuming operations at Rocky Flats, doubts about the need to restart Rocky Flats. Let me review these concerns.

First, DOE intends to close Rocky Flats. The end of the cold war provides the opportunity to put our strategic house in order, beginning with the DOE nuclear weapons complex, and in February, the DOE announced its own vision of a streamlined nuclear weapons complex. The Complex Reconfiguration Study outlined several options for

downsizing and consolidating the complex. The only recommendation common to both the more modest scaleback option and the more ambitious consolidation option outlined in that study was to close Rocky Flats.

Yet, even as the Department of Energy states that Rocky must close, it wants us to spend at least $1.2 billion to put Rocky Flats back to work in the interim. With diminished budgets and growing environmental demands, we do not have the budgetary luxury to continue to play all the options. We must make some tough choices and make them sooner than the DOE appears to recognize.

Beyond the budgetary and programmatic issues, there are several very good reasons for the committee to take a hard look at the need for resuming operations at Rocky Flats and the safety of doing so at this 40-year-old facility.

Safety is paramount in nuclear operations, yet DOE will not be able to be in compliance with 69 of its own priority 1 safety orders before it intends to resume operations in Building 559. Just last month, DOE official Vic Stello acknowledged that "by the time we start up we are not going to have achieved the kind of industry standards of excellence that are out there in the commercial sector." These words cannot be very reassuring to the million people living near Rocky Flats.

Even more disturbing was the revelation that DOE has not even completed a comprehensive review of the adequacy of existing safety orders. Secretary Watkins has stated on several occasions that safety would come before production in the new culture at DOE. Why restart operations under these conditions if, in fact, safety is the first priority? I hope that the Senate will insist on rigorous and independent oversight of safety issues at Rocky before restart is considered.

Rocky Flats also has enormous problems with waste storage. Currently, Rocky Flats is in violation of the Resource Conservation and Recovery Act [RCRA]. Further operations will only compound this violation of Federal law. Furthermore, renewed production would soon result in Rocky Flats exceeding the agreed limit of 1,601 cubic yards of transuranic waste on site. Neither Idaho nor WIPP will be able to accept Rocky's radioactive waste. DOE's Richard Claytor acknowledged before the Armed Services Committee that Rocky Flats would likely reach the agreed transuranic waste limit within months of resumed operations. What then?

Finally, the question of need. We all agree that it is important to maintain a safe and secure deterrent. Is it necessary to resume operations at Rocky Flats for that purpose? I do not believe so.

Dr. John Nuckolls, director of Lawrence Livermore Laboratory, stated to the Armed Services Committee on May 9 that the use of retired plutonium pits for new warhead production, including the W–88, is not a question of "if" but of "when." Dr. Nuckolls' prepared statement noted that 'to bypass Rocky Flats, we have proposed a potentially revolutionary approach in which pits from retired weapons are reused. Extensive part reuse could reduce Complex 21 costs and minimize waste generation." Dr. Nuckolls' estimate for manufacturing W–88 warheads with reused its was 2 to 4 years. Other experts have suggested it could be done more rapidly with sufficient funding and sense of urgency. Furthermore, additional safety features could be incorporated in warheads designed to accommodate recycled plutonium pits.

Expert opinion, therefore, appears to be telling us that we can rely on the relatively straightforward—and much less costly—process of manufacturng new and safer warheads with retired plutonium pits, rather than manufacturing a new plutonium trigger for every new warhead. This being the case, we would not need to reopen Rocky Flats for the manufacture of new pits.

In sum, the DOE is moving ahead at great cost to the taxpayer to reopen a facility which they intend to close, which will generate additional waste it cannot handle, which will require scores of waivers to DOE's own safety rules, and which is not necessary to meet U.S. national security goals.

In consideration of this year's defense bill, the Armed Services Committee will, I believe, address these concerns. At a minimum, I hope that the Armed Services Committee will insist that the use of funds for resumption of operations at any building at Rocky Flats be conditioned on:

First, a rigorous oversight by the Defense Nuclear Facilities Safety Board to assure that that resumption of operations is safe; and

Second, completion of a report by the Defense Science Board on the alternatives to resumption of operations at Rocky Flats, including the option of pit reuse.

Involving an independent panel in reviewing and certifying the safety aspects of restart at Rocky is essential. The Secretary of Energy promised last year that an independent panel would review the environmental, safety, and health issues at Rocky Flats before restart. The Conway Board is well suited for that task, and should be expected to do more than simply make recommendations to the DOE.

An examination of alternatives to Rocky restart is equally important. The practice of custom building every plutonium trigger is expensive and wasteful. We have ample numbers of retired plutonium pits in storage which could be adapted for use in new warheads. This promising and cost-saving alternative demands serious and prompt attention. How can we justify expending over a billion dollars to reopen a facility which might be rendered redundant within 2 years? There is no credible national security rationale for doing so.

Mr. President, I would like to, if I might, engage the distinguished chairman of the subcommittee briefly in a colloguy relating to language in the committee report related to the Rocky Flats nuclear weapons plant. The distinguished chairman is well aware of my concerns about it. I appreciate his concern and understanding. I wanted to make sure that we were clear on what was meant by some of the language that was in the report on page 131.

First of all, the report says the Secretary of Energy has informed the committee that an independent panel is not needed to confirm the department's plans for Rocky Flats. Is it true, has the committee taken a position on an independent panel and reviewed that situation?

Mr. Johnston. Mr. President, I am very familiar with the concern of my friend from Colorado with respect to the language about Rocky Flats. I think his concern really is not well taken with this language. If I may explain what this language on page 131 of our report is intended to do.

It is a recitation in three cases, in two cases of what the Secretary of Energy has said, and in another case describing what the House did, and in the fourth case describing what the law is. The committee was not stating its own opinion with respect to the need for an independent body, independent panel, to confirm the need for the start-up of Rocky Flats or as to the seriousness of questions regarding the capability of other facilities to meet the national security requirements directed by the President.

Our language does not say that. We, in fact, did not take a vote on that and our language does not mean that.

All we were doing in this report is pointing out that the Secretary and the President have authority for this and pointing out what they said and detailing what the House had done. That is all our language meant.

So I believe that the fear of the Senator from Colorado that we had somehow taken a clear position on this as a committee is not well-founded. We did not do so.

Mr. WIRTH. Mr. President, if I might continue, I really appreciate that response from the chairman of the committee.

I might just ask one further question. The Senate Armed Services Committee, as the chairman and I have discussed, is in the process of sorting through a whole variety of issues related to our strategic posture—B–2, MX, Trident, and so on, and Rocky Flats fits into that.

Is it my understanding that the Appropriations Committee, in its deliberations, future deliberations on Rocky Flats would be guided by whatever direction was given by the Senate Armed Services Committee?

Mr. JOHNSTON. I would say that that is our habit, that is our standard operating procedure. I cannot imagine that we would not follow that in this case.

There have been cases in the history of the Republic where the Appropriations Committee did not follow the authorizing committee, but I do not know of any reason in this particular case why we would not do so. We are not urging any particular action in this area on behalf of the authorization committee because we have not taken a position on it. We are generally guided, the Senator is correct, by the authorizing committee and we welcome their advice.

Mr. WIRTH. Mr. President, again I appreciate that response by the chairman of the Appropriations Committee and his help overall on this issue.

Mr. JOHNSTON. Mr. President, I thank the Senator from Colorado.

Mr. President, I now reiterate my unanimous consent request with the following change, that with respect to the amendment of the Senator from Georgia, there be only two second-degree amendments to be proposed thereto in order by the Senator from Utah—Is that correct?—germane amendment to the first-degree amendment. Relevant or germane, what was the word? Relevant and germane.

Mr. GARN. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. GARN. I will not object with the understanding of reserving two second-degree, relevant amendments and no time agreement on the Fowler amendment.

Mr. JOHNSTON. Yes. There is no time agreement anywhere in our unanimous-consent request.

Mr. HATFIELD. Will the Senator yield?

Mr. JOHNSTON. Yes, certainly.

Mr. HATFIELD. Did the Senator amend his first request to include an amendment by the Senator from Montana [Mr. BURNS]?

Mr. JOHNSTON. No. But if that is the request——

Mr. HATFIELD. If the Senator would, and a second amendment to be offered by the Republican leader, Mr. DOLE.

Mr. JOHNSTON. I have a Dole amendment, unspecified.

Mr. HATFIELD. There are two Dole amendments.

Mr. JOHNSTON. Two Dole amendments. Is the subject matter specified?

Mr. HATFIELD. Yes. High technology research on one and related to the Corps of Engineers and Reclamation on the second.

Mr. JOHNSTON. Mr. President, I would further amend the UC request by including two Dole amendments specified as——

Mr. HATFIELD. High technology research and relating to the Corps of Engineers and Bureau of Reclamation.

Mr. JOHNSTON. And relating to the Bureau of Reclamation.

Mr. HATFIELD. Will the Senator also——

Mr. JOHNSTON. And the Corps of Engineers. And that there be no Dole unspecified amendment.

Mr. HATFIELD. Will the Senator consider amending his request also to indicate that the Senators should present their amendments in order or may lose their opportunity if they are not here to do so.

As the Senator from Maine, the Democratic leader included on one previous occasion of locking these amendments in, I think that expedited more than any other thing I have remembered, the handling of these many amendments. I tell you what will happen otherwise. These amendments are locked in and then no one will show up to offer those amendments until about 6 o'clock tomorrow night.

The Senator and I will be here as managers of the bill. This has been repeated so often, the inconsiderate attitude and action on the part of our colleagues in not being here to offer their amendments. The Democratic leader I think struck on a very, very fine approach to this. If you are serious about an amendment, you are here to do business. We are here to do business. Why should the managers wait 3 hours, while others in their good time decide it is not convenient, and yet there we are locked into those amendments.

I am only reiterating, I think, what is very well known to all of us. We have all had that experience one way or the other, as we have managed bills. But I hope that maybe the Democratic leader would reassert this proposal that he made so effectively the first time around.

Mr. WALLOP addressed the Chair.

Mr. JOHNSTON. Mr. President, I would not yet ask that we put these amendments in that particular order. I would like to discuss that with the Senator from Oregon. But I wonder if there is any other discussion.

Mr. WALLOP. Mr. President, reserving the right to object, and I shall not, I would like to ask the distinguished Senator from Louisiana if this would preclude entering into a colloquy with the Senator from Rhode Island and the Senator from Wyoming with regard to wetlands.

Mr. JOHNSTON. No, it would not preclude any colloquies or any conversations. Mr. President, I therefore put the request.

The PRESIDING OFFICER (Mr. SANFORD). Is there objection?

Mr. GARN. Reserving the right to object, I have a technical question, in that if it must be germane, I am dealing with an amendment that is talking about deleting money, and I would probably want to add some back. My understanding would be that germaneness would prohibit that. So my only question is, the Senator said relevant and germane?

Mr. JOHNSTON. I strike "germane" and put in only "relevant," with respect to the amendment of the Senator from Utah.

The PRESIDING OFFICER. Is there objection?

Mr. GARN. With the two second-degree amendments.

I thank the Senator.

The PRESIDING OFFICER. Is there objection?

If not, the unanimous-consent request is agreed to.

Mr. JOHNSTON. Mr. President, I point out to Senators that this unanimous-consent request does not guarantee that these amendments will be considered; that when we start rolling tomorrow—and we hope we are going to roll on these things—that when we run out of amendments and third reading is ready, we will be ready to proceed to third reading. I hope Senators understand that, because we do not want to spend the day in a quorum call.

Mr. President, I further would ask unanimous consent with respect to the second-degree amendment of the other Senators that they also be relevant to the first-degree amendments.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. JOHNSTON. Mr. President, I wonder when the majority leader wants to start tomorrow?

Mr. MITCHELL. Mr. President, we have two requests for time in the morning, and so I would suggest, in view of the hour, that we plan to be on the bill at 10 a.m. We will come in at approximately 9:20 with requests for time in the morning. So we will be on the bill at 10 o'clock.

Mr. JOHNSTON. Mr. President, I hope the Senator from Arkansas is here. We can agree to start with his amendment tomorrow.

I guess he is not here.

Mr. President, I ask the majority leader, if we begin this tomorrow and run out of amendments and are simply in a quorum call, is it his understanding that under this unanimous consent and under his instructions to me that we will be ready to move to third reading when we run out of amendments?

Mr. MITCHELL. Mr. President, we, of course, have attempted to accommodate Senators when they have indicated an intention to offer amendments, as every Senator has been in that position. But I think it is fair that Senators be on notice that we want to proceed to get this bill done, and Senators should be prepared to offer amendments if they intend to do so.

I might say to the distinguished manager and the distinguished Republican manager who raised the question about taking the amendments in order, if I could speak with the Senator from Oregon, the current agreement does not preclude a further agreement which would change the order, and put them in an order that the Senators would contemplate makes sense, and is consistent with the schedules of Senators involved. That is what we tried to do in the previous case and it worked out very well, as the Senator from Oregon noted.

I do not know if time permits that either this evening or tomorrow morning, but I would suggest that perhaps first thing in the morning your staffers could consult with the other Senators to prepare the same identified amendments, but in a different order consistent with the schedules of Senators, and then they would be on notice that they would have to proceed in the order suggested.

One of the reasons I was reluctant to accept the invitation of the Senator from Oregon to do that on this, is that when the list was ready I do not believe the managers had in mind, at that point, doing it in a way that precluded Senators if they were not here.

I think you might want to reorganize it in a way that is consistent with your own schedule, and with that of the other Senators. But I would like to proceed with dispatch tomorrow, if the other Senators will cooperate.

I thank the managers for their cooperation. I think among the most superfluous of things I have said today, or in any other day, is my announcement now that there will be no further rollcall votes this evening.

I yield the floor.

Mr. JOHNSTON. Mr. President, I am looking for the distinguished Senator from Idaho [Mr. CRAIG], who wanted to do a colloquy.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I thank my chairman for yielding.

Mr. President, I would like to engage the chairman of the subcommittee in a colloquy in relation to page 83, title III of this appropriations bill. I am referencing the boron-neutron-capture therapy within the biological-environmental research area.

Last year our former colleague, Senator McClure, was able to put in this legislation what we believe was critical and necessary funding to continue the research and the development of the power-burst reactor current at the laboratory in Idaho, to be able to assure that we would be able to progress in this very important research theory and consortium that was developing around this unique form of brain cancer research and medication.

The Secretary of Energy chose not to use that money. In fact, it is my understanding, he would wish to do otherwise.

This year our colleagues in the other body put some money back in the language and this committee in its wisdom, and I think appropriately so, said that the committee directs the Department to review the funding requirements and carry out the research program for the fiscal years of 1990–1995, as well as for the reactor modification required with the funding profile.

What we are saying, and what I think is very important and what I want the Record to show, is that we are asking now—or, more importantly, by law we are directing—the Secretary of Energy to come forth with a plan not only for the necessary modifications, but recommendations to be found no later than August 30 of this year, so that this Congress can then move forward with the appropriate appropriations, based on the schedule that the Secretary will develop and have before this body before the 1st of September.

That is my understanding of the language that is embodied within this particular appropriations bill. What I would like to ask of the Chairman, first of all: Is my understanding correct, that is the intent of the committee at this time?

Mr. JOHNSTON. Mr. President, the Senator is correct. The report from the Department of Energy which we mandate to be submitted to us, including a funding profile, would then permit the Congress to act, and to appropriate for the program.

Really without that funding, the Congress cannot act. This would, in fact, enable us to do that.

Mr. CRAIG. I thank my chairman for yielding. I certainly want to express my gratitude for the leadership the chairman has shown on this issue, along with the ranking minority member, the Senator from Oregon, Mr. HATFIELD. Both have demonstrated important leadership in this area.

I think what is so fundamentally important as we look at some of the changes that are current in the development of energy, and the directions our laboratories are taking, and which we want our laboratories to take, here is a unique opportunity in the area of nuclear medicine for the kind of quality research that is really a world precedent.

In fact, the world is now watching us to see if we are going to be leaders with the power-burst reactor in this nuclear research for brain cancer of this particular type. So it is important that we move forward with the funding profile from the Secretary.

I thank the chairman and leader of this subcommittee on this appropriation legislation for yielding.

I yield the remainder of my time.

Mr. JOHNSTON. I thank the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting two treaties which were referred to the appropriate committees.

(The treaties received today are printed at the end of the Senate proceedings.)

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO LIBYA—MESSAGE FROM THE PRESIDENT—PM 58

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

1. I hereby report to the Congress on the developments since my last report of January 11, 1991, concerning the national emergency with respect to Libya that was declared in Executive Order No. 12543 of January 7, 1986. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c); section 204(c) of the International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C. 1703(c); and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa–9(c).

2. Since my last report on January 11, 1991, the Libyan Sanctions Regulations (the "Regulations"), 31 C.F.R. Part 550, administered by the Office of Foreign Assets Control ("FAC") of the

Department of the Treasury, have been amended. This amendment, published on May 6, 1991, 56 FR 20541, adds an appendix to the Regulations containing a list of organizations determined to be within the term "Government of Libya" (Specially Designated Nationals of Libya). A copy of this amendment is attached. Since January 11, 1991, there have been no amendments or changes to orders of the Department of Commerce or the Department of Transportation implementing aspects of Executive Order No. 12543 relating to exports from the United States and air transportation, respectively.

3. During the current 6-month period, FAC made 15 decisions with respect to applications for licenses to engage in transactions under the Regulations, as well as 4 amendments to previously issued licenses. Several of these licenses were issued to former employees of the People's Committee for Students of the Socialist People's Libyan Arab Jamahiriya, also known as the PCLS, to permit them to engage in court actions against the PCLS to recover salary, severance pay, and other unpaid benefits.

4. Various enforcement actions mentioned in previous reports continue to be pursued, and investigations of possible violations of the Libyan sanctions were initiated. The recent amendment to the Regulations listing organizations determined to be Specially Designated Nationals ("SDNs") of Libya publicly identifies organizations located outside Libya that have been determined by FAC to be owned or controlled by, or acting on behalf of, the Government of Libya. For purposes of the Regulations, all dealings with the organizations listed will be considered dealings with the Government of Libya. All unlicensed transactions with these persons, or in property in which they have an interest, are prohibited. The initial listing of 48 Libyan SDNs is not intended as a static list, but will be augmented from time to time as additional organizations or individuals owned or controlled by, or acting on behalf of, the Government of Libya are identified.

5. The expenses incurred by the Federal Government in the 6-month period from December 15, 1990, through June 14, 1991, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the Libyan national emergency are estimated at $254,700. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of State, and the Department of Commerce.

6. The policies and actions of the Government of Libya, such as support for terrorism and international destabilization and the pursuit of offensive weapons systems, particularly chemical weapons, continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. I shall continue to exercise the powers at my disposal to apply economic sanctions against Libya as long as those measures are appropriate, and will continue to report periodically to the Congress on significant developments as required by law.

GEORGE BUSH.

THE WHITE HOUSE, *July 9, 1991.*

REPORT ON CONSERVATION AND USE OF PETROLEUM AND NATURAL GAS IN FEDERAL FACILITIES—MESSAGE FROM THE PRESIDENT—PM 59

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

As required by section 403(c) of the Powerplant and Industrial Fuel Use Act of 1978, as amended (42 U.S.C. 8373(c)), I hereby transmit the twelfth annual report describing Federal actions with respect to the conservation and use of petroleum and natural gas in Federal facilities, which covers calendar year 1990.

GEORGE BUSH.

THE WHITE HOUSE, July 9, 1991.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance, without recommendation without amendment:

S. 1367. A bill to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1992 provided certain conditions are met (Rept. No. 102–101).

By Mr. BENTSEN, from the Committee on Finance, unfavorably without amendent:

S.J. Res. 153. Joint resolution disapproving the recommendation of the President to extend nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China (Rept. No. 102–102).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment:

S.J. Res. 18. Joint resolution proposing an amendment to the constitution relating to a federal balanced budget (Rept. No. 102–103).

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–164. A concurrent resolution adopted by the Legislature of the State of Minnesota to the Committee on Agriculture, Nutrition, and Forestry.

"Whereas the health of Minnesota's dairy industry, which is now in crisis, is key to the economic well-being of the state of Minnesota; and

"Whereas agriculture is the number one revenue-producing industry in Minnesota, and the dairy industry produces the largest share of this revenue; and

"Whereas the current milk price is the lowest farmers have received since September, 1978; and

"Whereas the present milk support price of $10.10 per hundredweight fails to meet dairy farmers' minimum costs of production; and

"Whereas Minnesota has lost 10,000 dairy farmers since 1980, has lost 40 more in the past two weeks, and in the face of the present crisis will continue to lose dairy farmers at an alarming rate, threatening the very existence of the dairy industry in the state; and

"Whereas the income of dairy farmers will be further reduced by an assessment of five cents per hundredweight on nearly ten billion pounds of Minnesota milk in 1991, which is just the latest in a continuing string of increases in fees and assessments paid by dairy farmer; and

"Whereas federal milk marketing orders are discriminatory and skewed to give unfair advantage to large corporate farms of the West and South, suppressing milk prices in the Upper Midwest and inflating prices by several dollars per hundredweight in nontraditional dairy areas; and

"Whereas the dairy farmer has taken more substantial cuts in federal support than any other sector of our economy and agriculture itself, starting with repeal of the April, 1981, six-month price support adjustment for inflation and a continuous series of cuts and reductions in the price support base and fee and assessment increases paid by dairy farmers on milk production in every decision made by the President and Congress; and

"Whereas the Minnesota House and Senate and the Minnesota Governor are committed to preserving the family farm structure and Minnesota's small dairy farmers, Now, therefore, be it

"*Resolved by the Legislature of the State of Minnesota*, That it urges the President, Congress, and the Secretary of Agriculture to immediately respond to the crisis in the Midwest dairy industry by reopening the dairy provisions of the 1990 federal farm law to insure that Minnesota and Midwest dairy farmers receive cost of production plus a reasonable profit for their products; and be it further

"*Resolved*, That the United States Secretary of Agriculture should immediately take action to alleviate the Minnesota and Midwestern dairy crisis by modifying and changing the federal milk marketing order system so as to eliminate the discriminatory provisions from the orders that pay more for milk to Western and Southern producers than paid to Midwest dairy farmers and encourage increased dairy production in markets distant from the Upper Midwest, depressing prices for Minnesota producers; and be it further

Resolved, That Congress take immediate action to alleviate the crisis in the Midwest dairy industry by increasing milk price supports by $2.30 per hundredweight, an increase that will allow midwest producers to break even on costs of production; and be it further

Resolved, That the Secretary of State of the State of Minnesota is directed to prepare certified copies of this memorial and transmit them to the President of the United States, the President and Secretary of the

United States Senate, the Speaker and Chief Clerk of the United States House of Representatives, the Chair of the House of Representatives Committee on Agriculture, the Chair of the Dairy Division of the House of Representatives Committee on Agriculture, Minnesota's Senators and Representatives in Congress, and the United States Secretary of Agriculture."

POM-165. A resolution adopted by the Senate of the State of Michigan; to the Committee on Environment and Public Works:

"SENATE RESOLUTION NO. 76

"Whereas the Highway Trust Fund receives revenue from federal excise taxes on gasoline and diesel fuel, which represent user fees intended to support the country's highway system. However, a portion of this fund is currently being held captive to artificially balance the federal budget; and

"Whereas the most recent five-cent-per-gallon increase in federal fuel taxes allocated only 2.5 cents to the Highway Trust Fund, with the balance allocated to the federal government's general fund; and

"Whereas the current allocation formula for the Highway Trust Fund has the effect of returning only eighty-five percent of the money Michigan taxpayers contribute to Washington back to Michigan; and

"Whereas it is important to immediately address these inequities in order to preserve our state's highway system: now, therefore, be it

"Resolved by the Senate, That we hereby memorialize the President of the United States and the United States Congress to take appropriate steps to release certain funds from the Highway Trust Fund, to ensure that all of the recent federal fuel tax increases be allocated to the Highway Trust Fund, and to amend the Highway Trust Fund allocation formula to assure that Michigan receives its fair share of fuel tax revenue; and be it further

"*Resolved*, That a copy of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Michigan congressional delegation, and the Governor of Michigan."

POM-166. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Finance:

"HOUSE RESOLUTION NO. 315

"Whereas the provisions set forth in 42 U.S.C. 415 of determining the primary insurance amount of a person receiving Social Security were amended in 1977 by Public Law 95-216; and

"Whereas that amendment resulted in disparate benefits according to when a person initially becomes eligible for benefits; and

"Whereas persons who were born during the years 1917 to 1926, inclusive, and who are commonly referred to as "notch babies," receive lower benefits than persons who were born before that time; and

"Whereas the payment of benefits under the Social Security System is not based on need or other considerations related to welfare, but on a program of insurance based on contributions by a person and his employer; and

"Whereas the discrimination between persons receiving benefits is totally inequitable and contrary to the principles of justice and fairness; and

"Whereas the Social Security Trust Fund has adequate reserves to eliminate this gross inequity; therefore, be it

"Resolved, by the House of Representatives of the eighty-seventh General Assembly of the State of Illinois, That Congress is hereby urged to enact legislation to eliminate inequities in the payment of Social Security benefits to persons based on the year in which they initially become eligible for benefits; and be it further

"*Resolved*, That a copy of this resolution be transmitted to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Illinois Congressional Delegation."

POM-167. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Governmental Affairs:

"HOUSE CONCURRENT RESOLUTION 183

"Whereas the freedom we enjoy as United States citizens is guarded by the men and women in the armed forces and should not be taken for granted; and

"Whereas in the recent history of our country we have been involved in conflicts which have required the deployment of the armed forces, and these conflicts have resulted in more than 88,000 American service personnel remaining prisoners of war or missing in action from World War II, the Korean War, and the Viet Nam Conflict; and

"Whereas the United States Foreign Relations Committee released an interim report that concluded that American service personnel were held in Southeast Asia after the end of the Viet Nam conflict; and

"Whereas on April 12, 1973, the United States Department of Defense publicly stated that there was 'no evidence' of live American POW's in Southeast Asia; and

"Whereas the public statement was given nine days after Pathet Lao leaders declared on April 3, 1973, that Laotian communist forces did, in fact, have live American prisoners of war in their control; and

"Whereas no POW's held by the Laotian government and military forces were ever released; and

"Whereas there have been more than 11,700 live sighting reports received by the Department of Defense since 1973 and, after detailed analysis, the Department of Defense admits there are a number of 'unresolved' and 'discrepancy' cases; and

"Whereas in October 1990, the United States Foreign Relations Committee released an 'Interim Report on the Southeast Asian POW/MIA Issue' that concluded that United States military and civilian personnel were held against their will in Southeast Asia, despite earlier public statements by the Department of Defense that there was 'no evidence' of live POW's, and that information available to the United States government does not rule out the probability that United States citizens are still being held in Southeast Asia; and

"Whereas the Senate interim report states that congressional inquiries into the POW/MIA issue have been hampered by information that was concealed from committee members, or was 'misinterpreted or manipulated' in government files; and

"Whereas the POW/MIA truth bill would direct the heads of the federal government agencies and departments to disclose information concerning the United States service personnel classified as prisoners of war or missing in action from World War II, the Korean War, and the Viet Nam Conflict; and

"Whereas this bill would censor the sources and methods used to collect the live sighting reports, thus protecting national security; and

"Whereas the families of these missing service personnel need and deserve the opportunity to have access to the information concerning the status of their loved ones after these may years; Now therefore, be it

"*Resolved*, That the legislature of Louisiana does hereby memorialize the Congress of the United States to appoint a select committee to assist the United States Senate Foreign Relations Committee in obtaining information in government files, to begin immediate committee hearings to consider enacting the POW/MIA truth bill, and to continue funding of this investigation that is vital to resolving the POW/MIA issue in Southeast Asia; and be it further

"*Resolved*, That the legislature does provide that a copy of this Resolution be transmitted to the secertary of state, the president and secretary of the United States, the speaker and chief clerk of the United States House of Representatives, and each member of the Louisiana congressional delegation."

POM-168. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on the Judiciary:

"JOINT RESOLUTION

"Whereas the American flag is a symbol of national unity, provides a beacon of hope and liberty for every nation in the world, is a source of tremendous national pride and is cherished as the embodiment of our country's history, traditions and ideals; and

"Whereas our Armed Forces have defended our country's freedoms under the banner of the Stars and Stripes from the Revolutionary War to the present day; and

"Whereas the American flag is also a symbol of the fundamental framework of individual rights laid down in the Constitution and is a symbol of the political heritage of this most noble experiment, our nation; and

"Whereas this is the bicentennial year of the passage of the Bill of Rights and as the individual rights guaranteed by those amendments to our nation's Constitution constitute the very essence of our political heritage of liberty and freedom; and

"Whereas the Bill of Rights has stood unchanged since its adoption on December 15, 1791 and, as a result, has served as the unvarying bulwark that protects individual liberty in this country; and

"Whereas any change to the Bill of Rights may create a dangerous precedent and may open the door to incremental erosion of the basic rights enjoyed by all Americans; now, therefore, be it

"*Resolved*, That We, your Memorialists, respectfully recommend and urge the President and the Congress of the United States to take appropriate action to ensure that proper respect and treatment will always be accorded to the American flag and to ensure that desecration of our flag will be prevented while continuing our nation's long and proud history of preserving the integrity of the Bill of Rights to the Constitution of the United States; and be it further

"*Resolved*, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable George H. W. Bush, President of the United States; the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States; and each Member of the Maine Congressional Delegation."

POM-169. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on the Judiciary:

"JOINT RESOLUTION

"Whereas this the bicentennial year of the passage of the Bill of Rights; and

"Whereas the fundamental framework of individual rights as laid down in the Bill of Rights constitutes the very essence of our political heritage of liberty and guarantees our freedom; and

"Whereas the Bill of Rights has stood unchanged since its adoption on December 15, 1791 and, as a result, has served as the unvarying bulwark that protects individual liberty in this country; and

"Whereas any amendment to the Constitution on any single issue of the moment that diminishes to any degree the Bill of Rights will create a dangerous precedent and may open the door to incremental erosion of the basic rights enjoyed by all Americans: Now, therefore, be it

"Resolved, That We, your Memorialists, respectfully recommend and urge the Congress of the United States to reject any proposed amendment that may now or in the future diminish the strength of the Bill of Rights; and be it further

"Resolved, That We urge the Congress of the United States to secure and preserve the Bill of Rights in its historic and current form; and be it further

"Resolved, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable George H. W. Bush, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. METZENBAUM:

S. 1436. A bill to amend section 21A of the Federal Home Loan Bank Act to extend the period applicable to single family property in the Affordable Housing Program; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATCH:

S. 1437. A bill to amend title 28 of the United States Code to preclude the application of sovereign immunity in certain circumstances where a foreign state has taken property in violation of international law outside its territory; to the Committee on the Judiciary.

By Mr. DASCHLE:

S. 1438. A bill to provide for international negotiations to seek increased equity in the sharing by foreign countries of the costs of maintaining military forces of the United States in such countries; to the Committee on Armed Services.

By Mr. JOHNSTON:

S. 1439. A bill to authorize and direct the Secretary of Interior to convey certain lands in Livingston Parish, Louisiana; to the Committee on Energy and Natural Resources.

By Mr. BRADLEY:

S. 1440. A bill to establish a National Scenic Coastal Area System; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE:

S. Res. 152. Resolution to make a minority party change in Committees; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METZENBAUM:

S. 1436. A bill to amend section 12A of the Federal Home Loan Bank Act to extend the period applicable to single family property in the Affordable Housing Program; to the Committee on Banking, Housing, and Urban Affairs.

EXTENSION OF PERIOD APPLICABLE TO SINGLE FAMILY HOUSING IN THE AFFORDABLE HOUSING PROGRAM

• Mr. METZENBAUM. Mr. President, I rise today to introduce legislation which should help make the American dream of home ownership a reality for more low-income Americans. This bill which amends the Financial Resource and Recovery Enforcement Act of 1989, is designed to assist low-income home buyers take full advantage of the special marketing period for single family homes in the affordable housing inventories of the Resolution Trust Corporation.

When FIRREA was passed, a 3-month marketing period was included to give low-income home buyers a window of opportunity to submit a bid on a home without having to compete with the savvy real estate speculators. Experience has shown that the marketing period is simply insufficient given all the steps required to prepare a home for sale, and the effort and time needed to submit a bid and complete a sale.

Congress gave the RTC the mandate to sell the office buildings, golf courses, condominums, and other assets that were once owned by failed savings and loans. We included provisions to create an affordable housing department to assist low-income home buyers in buying selected properties from the RTC's real estate inventory. It was one of the few opportunities that we had to salvage something worthwhile from the savings and loan debacle. It is no secret that the RTC did not want the responsibility of running the program. Their performance to date reflects this.

The program has fallen far short of its goals. Reports of abuse, excessive bureaucracy, properties ending up in the hands of overqualified buyers or speculators, and downright misrepresentations abound. Shrewd investor groups have taken advantage of the affordable housing program at the expense of those Americans who want to become homeowners. Once again we are hearing the sad and familiar tale of how a few savvy individuals have looted the Government for their personal gain.

The failures of the affordable housing program are not the result of a lack of interest from qualified low-income home buyers. The New York Times reported on June 26 that thousands of interested home buyers have qualified with RTC for consideration under the affordable housing program. Yet, we read how the time period for submitting a bid has expired on a greater number of homes than the RTC has actually sold within the marketing period. Given the RTC's inventory of single family homes, and the abounding interest from qualified buyers, we should either change the bureaucracy or give the home buyer more time.

Under the affordable housing program qualified low-income home buyers have the first right of refusal for up to 3 months on the sale of selected single family homes. The sale of these single family homes comprises a fraction of the total sales of assets that the RTC must make. According to RTC calculations, the income from the sale of these homes will only account for 1 percent of total income the RTC expects to receive from the sale of all assets. However, the RTC has made it every bit as complicated for a low-income home buyer to purchase a $30,000 house as it has for the sophisticated speculator to purchase a multimillion dollar complex.

In the sale of a single family home, the RTC must identify the property, clear the title, prepare the property for release to a clearing house, perform an appraisal, set a price, qualify buyers, perform an inspection, and market the property to low-income home buyers. For the potential home buyer, they must qualify for the program, find an eligible property, and perhaps most difficult of all, arrange financing. For those of us who have been fortunate enough to purchase a home, we are all too familiar with the delays and problems that frequently develop in buying a home, and yet, we expect the low-income home buyer to accomplish all of these tasks in a matter of weeks.

My bill extends the time period from 3 to 6 months so that any qualified buyer has sufficient time to purchase the home of his or her choosing. This extension of time available to submit a bid and complete a purchase will have the effect of maximizing the sales of affordable housing and will more effectively carry out the intentions of Congress. The extra time will also give the RTC affordable housing disposition program the necessary help to eliminate any abuses which have invaded the program. Most important, thousands of first time home buyers will have a reasonable opportunity of buying their own homes—a treasured achievement.

I ask unanimous consent that a recent series from the New York Times

and an article from the Wall Street Journal on this subject appear in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 25, 1991]

RTC'S AFFORDABLE-HOUSING PLAN FALTERS

(By Todd Mason)

DALLAS.—State worker Trecia DeBaun was crestfallen in April when the Resolution Trust Corp. put out its list of affordable houses to be sold by sealed-bid auction just five days before the bids were due. With a job, two children and a daunting list of homes to inspect, she says, "it was an impossible deadline for a single parent."

So it goes with the RTC's affordable-housing program, the initiative that was supposed to make lemonade out of the nation's lemon thrifts by helping people in need of housing. So far, little of the lemonade has trickled down to the poor. Critics charge that the RTC largely ignored its obligations under the 1989 thrift reconstruction law until this spring and then geared up a headlong rush to clear out 80% of its inexpensive assets by June 30. In the stampede, they charge, many poor people have been trampled.

So far, sales have been strong in states like Florida and New Hampshire, where the RTC has small inventories and time to plan. As of April 30, sales contracts had been obtained on 5.679 homes, or 48% of the RTC's inventory then. But the agency is mainly reaping frustration in Texas, home to half of its inventory of modestly priced homes. In May, for example, the RTC offered 762 Texas homes but accepted bids on only half of them, due in part to late and sometimes inaccurate sales lists.

The agency's frenetic sales pace handicaps the working poor, who have little time to inspect houses and make decisions, and it presents an opportunity for speculators, complains John Henneberger, director of the Low-Income Housing Information Service in Austin, Texas. "It's been such a flop compared to its potential," he says.

The RTC, disputing Mr. Henneberger's conclusion, defends its hectic sales schedule. "These low-valued assets are very costly to maintain," says Dallas regional director Carmen J. Sullivan. "We're fundamentally tied to our goal of reducing costs to the taxpayer."

The conflict between housing the poor and minimizing taxpayer costs has dogged the affordable program ever since Congress slipped it into the 1989 thrift bailout bill. According to provisions of the law, low-income and moderate-income buyers and nonprofit groups have the exclusive right to buy RTC homes and condominium units priced at $67,500 or less for the first 90 days they are on the market. Trouble is, the standards used by the RTC to define an eligible buyer don't carve out much of an edge for low-income families.

The RTC, borrowing standards established by the Department of Housing and Urban Development, defines moderate income as 115% of median family income in a particular area. In Austin, Texas, for example, that amounts to $47,150 for a family of four. The agency defines low income as 80% of median income, or $32,800 in Austin, but offers no special breaks for those families. The median price of a home in Austin was only $85,000 in April.

Even with these generous guidelines, the RTC initially ignored its affordable-housing obligations, advocates charged in lawsuits filed in federal courts in Arizona and Texas this spring. Under its original sales rules, the RTC couldn't reduce prices for six months, meaning that the exclusive bidding period for low-income buyers expired before the agency could correct overly optimistic appraisals, which were legion. The suits also alleged that when RTC properties that originally exceeded the affordable-housing threshold of $67,500 were marked down below that level, those homes weren't set aside at all.

To settle the suits, the RTC promised to make amends, and geared up an ambitious sales campaign to tell potential buyers how the program worked. It also started recruiting nonprofit groups as technical advisers. "We needed experience to develop and change policies," says Stephen S. Allen, the program's director. "None of this could have happened on the day the law was signed."

Unfortunately, the RTC still can't provide Texas buyers with current and complete lists of homes for sale. When Ms. DeBaun, the buyer in Dallas, couldn't make sense of the RTC inventory and failed to interest a real estate broker in her search, she turned to Acorn, and advocacy group for the poor. But Acorn often loses its way in the bureaucratic thickets, too, admits Elizabeth A. Wolff, the group's regional director in Dallas. "We can't get the lists fast enough," she says. "It's a very frustrating enterprise." Meanwhile, Ms. DeBaum continues her search for a home.

While Ms. Sullivan concedes that RTC sales information isn't always accurate, she rests her defense on the results. She says that two-thirds of the successful bidders in the April and May Texas sales were low-income families as defined by the HUD/RTC standards. And buyers who aren't fast enough or confident enough to bid in the auctions can buy homes before—or after, if they remain unsold.

But there's hot competition in sealed-bid auctions for the choiciest properties, leaving homes of little value or appeal. (In a separate transaction, the RTC offered to give away 1,000 Texas homes to nonprofit groups but had found takers for only 400 of the hard-to-sell properties as of the June 5 deadline.)

The process has brought little but frustration to prospective buyers like Carmen Chavez-Lujan, a state worker in Austin who was prepared to bid $59,000 for an attractive suburban house with a swimming pool. A real estate broker told her the house was no longer for sale, she says. The RTC insisted it was. She was later told that the new owner had paid $33,000. She gave up on the program. "It just caused me a great deal of anger," she says.

"Investors are buying these properties still," charges Mr. Henneberger, the Austin housing advocate. He thinks that a few real estate brokers are steering the attractive properties to acquaintances or colleagues. He also believes that most brokers are turning away those buyers who could purchase homes only after a difficult search for financing. "We hear complaints of steering," says Ms. Sullivan, but she points again to the low-income profile of successful bidders.

The sales contracts, conditioned on obtaining mortgage loans, don't always turn into successful sales, though. Lenders in the Southwest are disqualifying low-income borrowers for even the slightest credit blemishes, says Gordon O. Packard, co-executive director of Primavera in Tucson. "It happens time and again," he says. "Each time, it's like kicking applicants in the stomach."

[From the New York Times, June 26, 1991]

FEW OF THE WORKING POOR GET HOUSES IN S&L RESCUE PLAN

(By Leslie Wayne)

AUSTIN, TX.—It's a tale of dreams gone awry.

When Congress created the Resolution Trust Corporation in 1989 to clean up the savings and loan mess, it decided to set aside thousands of foreclosed houses and apartments as low-cost housing for low-income people.

The notion was elegant in its simplicity: housing for the needy, thanks to the savings and loan crisis. The Government could provide decent shelter without spending a dime on new public housing. And the working poor, at long last, could own a home at a price they could pay.

It has not worked out like that. Virtually everyone agrees that the program has fallen short of its goals, though how far short is in dispute.

HARSH VIEWS EXPRESSED

"It's an unmitigated disaster," said Richard Jordan, a former board member of the Texas Housing Authority and a real estate investor. "The Government had the unprecedented opportunity to disperse people into single-family detached homes and it hasn't. Why? Because the program stinks."

Mr. Jordan is not alone in his view. Members of Congress and advocates of affordable housing say the Goverment has failed almost completely to exploit an important and rare opportunity.

Resolution Trust acknowledges that thus far only a small portion of the houses in the program have gone to the poor. But officials insist they have labored to devise policies to tackle an extremely difficult task, and they say that such a program cannot be established overnight. Stephen S. Allen, the corporation's head of affordable housing, said that under the circumstances "what we have accomplished has been remarkable."

WORKING POOR SHUT OUT

At any rate, thousands of inexpensive homes that could have gone to low-income buyers under the program have, in fact, been siphoned off and bought by investors. Middle-class buyers, who could otherwise afford housing, have been flocking to take advantage of bargain prices. And the working poor who could benefit the most from this program have been virtually shut out by, among other things, a lack of mortgages for them.

The program's critics contend that the Bush Administration, which fiercely opposed the program when it was initially set up by Congress, has actively tried to scuttle it through policies that discriminate against the poor.

Among them was a program that offered bigger discounts and better financing to sophisticated investors than to low-income buyers. Some of these policies have changed, housing advocates say, but the basic problems still exist.

"This has been a tremendous lost opportunity," said Frank H. Shafroth, director of Federal relations for the National League of Cities in Washington. "Something wonderful could have happened to a lot of families in America. But it didn't."

Representative Bruce F. Vento, a Minnesota Democrat who was chairman of a special Congressional task force on Resolution Trust, said he was disappointed. "The Administration and the R.T.C. had to be dragged kicking and screaming into the affordable-housing program," he said. "They have a basic reluctance to implement the law."

Mr. Allen of Resolution Trust said the expectations of the critics were unrealistic. "You can't help lower-income people buy when you have a mandate to return the maximum dollars to the Government," he said, "and it's a conflict. So it's an ongoing challenge for us to reach our target market."

THE PROGRAM: SOCIAL POLICY VS. TOP DOLLAR

To carry out the program, Resolution Trust has hired an impressive array of bureaucrats with a long history of service to the poor. But they find themselves caught between the agency's conflicting goals: Selling real estate at top dollar to reduce the cost of the savings and loan bailout for all taxpayers, and selling small houses at affordable prices. The agency is working at the juncture of social policy and quick real estate sales, and money talks.

Under the program as set up by Congress, a 90-day window was created in which low-income buyers and nonprofit organizations have the exclusive chance to buy Resolution Trust properties appraised at less than $67,500. If there are no takers, the houses are offered on the open market.

As of the end of April, 17,372 houses and 489 apartment complexes with 65,097 individual apartments have fallen within these guidelines. This represents $1.6 billion in real estate, or 10 percent of Resolution Trust's entire portfolio. And more housing will be added as the agency continues to take over insolvent savings and loans.

Besides social policy, there are strong economic incentives behind the affordable housing program. The Government estimates that it costs $18.25 a day, or about $6,600 a year, to carry a foreclosed house. At the same time, new public housing costs anywhere from $60,000 to $100,000 a unit.

In one fell swoop, the Government could lop off hundreds of millions of dollars in real estate carrying costs and provide new public housing on the cheap.

"If you believe the Government should intervene to help low and moderate families, this should be the way," said Representative Barney Frank, a Massachusetts Democrat and advocate of the program. "It's the lowest per-unit cost to the Government."

But sales so far have been agonizingly slow. Only 2,500 houses had been sold by May 1 and, by the end of that month, 13 apartment buildings had been sold. Critics contend that few of the houses have actually gone to low-income people.

At the same time, 3,300 houses and 174 apartment complexes have passed through the 90-day window unsold. In Texas, where nearly half the affordable properties are, brokers say many of these have since been snapped up by investors eager to take advantage of the prices, which for houses taken as part of savings and loans failures are substantially lower than those on the general real estate market.

And an additional 3,998 houses appraised at less than $67,500 never even got into the program and were sold to other buyers because of a rule, only recently changed, that excluded houses of savings and loans associations the Government had declared insolvent but had not yet seized. These houses instead were offered by the Government on the open market.

TRYING TO QUALIFY: MOST REFUSED AS CREDIT RISKS

Such numbers take on real meaning for DeeDee Cyphers, a single mother of three in Austin who is stretching to make ends meet on the $19,000 she earns as a senior accounting clerk for Travis County.

Ms. Cyphers is one of the people the program is intended to benefit. But, as with many like her, it has failed to reach her. "It's like the American dream is not coming true for the working poor, she said.

One day, a fellow employee showed Ms. Cyphers a flier for the Resolution Trust program. Intrigued, she got a list of properties and, with a broker, found a $26,000 house in a neighborhood she fell in love with. Her offer was accepted and a "sold" sign sprouted by the house. At night, she would drive by just to look. "It wasn't a mansion but it was cute," she said, "a nice place to raise my kids that wasn't trashed with drugs."

Even more attractive to her was the monthly mortgage payment of $308, significantly less than the $425 she struggles to pay in rent.

THE BANK SAYS NO

But Ms. Cyphers got turned down at the bank. This happened even though she had the down payment, had held the same job for five years and was applying under a special program of the Texas Housing Authority, which issued bonds specifically to provide mortgage money in local banks for low-income buyers of agency properties.

But the bank, in this case Guaranty Federal Savings, and not the housing authority makes the final credit decision. And the bank did not like the fact that seven years ago, when Ms. Cyphers and her former husband were laid off, they returned a leased car to a dealer who wanted the payments instead of the car. The dealer obtained a judgment against her.

For Ms. Cyphers, this disappointment turned into "heartbreak," in her words, when she learned recently that Resolution Trust was planning to give away to nonprofit agencies up to 3,000 houses it said it could not sell. Some of these are in bad shape but can certainly be fixed up.

"The R.T.C. is trying to give away houses and here I want to pay for one," she said. "I think they should try to help the working poor who are trying to get back on their feet. The houses are supposed to be affordable—to help the people out. If I were rich, I wouldn't need the R.T.C."

OVERSIGHT: CRITICS SAY BOARD HAMPERED PROGRAM

Much of the program's poor showing has been attributed by critics to restrictions in the initial law and to implementation policies of Resolution Trust's Oversight Board, whose members include Alan Greenspan, chairman of the Federal Reserve, and Jack F. Kemp, Housing and Urban Development Secretary.

The board allowed the agency to make big discounts in all properties except those in the affordable-housing program until just three months ago when Congress halted the practice by threatening to withhold the agency's funds. The effect was that people were buying houses outside the program cheaper than the poor could get them within the program during the 90-day period.

And seller financing has been offered by the agency to buyers of all other properties—except in the affordable-housing program, where Resolution Trust two years later is beginning to develop a limited program of financing for low-income buyers.

"There was just an ideological objection to helping poor people," Representative Frank said. The Bush Administration, he charged, "felt that poor people were a pain and they don't need them."

Not so, say members of the Administration and the Oversight Board. "We've been proactive in affordable housing," said Peter H. Monroe, president of the board. "In terms of the dollars the R.T.C. will collect from real estate, maybe 1 percent will come from residential affordable real estate."

Alfred A. DelliBovi, Under Secretary for Housing and Urban Development, said, "I can assure you there has been no foot-dragging by the Administration to carry out this law."

Critics acknowledge that some of the flaws in the program have been corrected but say the low-income citizens who were to have been given preference are still for the most part missing out.

THE TEXAS EXPERIENCE: FEW OF THE POOR GET HOUSES

Nowhere are the problems of the program more apparent than in Texas, where real estate prices have fallen so drastically that nearly every house that falls into the agency's hands meets the affordable-housing guidelines. And, nearly half of all affordable houses to be sold by the agency are in Texas, where the Texas Housing Authority estimates that 60,000 people are homeless. In Dallas, there is a two-year waiting list for public housing.

Potential buyers and nonprofit organizations said in interview that accurate information on what houses were available had been almost impossible to get. The bidding process is described as a nightmare of paperwork that discourages real estate brokers from even showing properties.

Before putting down a $500 earnest-money deposit on a house in the program, a prospective buyer must fill out a 25-page form. Until recently, the agency's real estate contract was 45 pages long instead of the standard 3 pages. "I've sold commercial property for the R.T.C. and that was a pain in the neck," a Houston broker said. "But it's nothing like the affordable-housing program. It's more of a headache than it's worth."

MORTGAGES HARD TO GET

More important, mortgage financing for low-income people has been hard to come by, despite the housing authority's bond issue, which raised $142 million to fund 8.35 percent mortgages through banks that would lend to low-income buyers of Resolution Trust houses.

So far, only 384 such loans have been made, leaving the agency with $122.5 million in unused mortgages. This comes despite a telephone hotline that has been getting nearly 800 calls a day, newspaper and radio ads and a mailing to more than 14,000 homes.

"The consumer is tearing down our door," said Richard H. Garza, former acting executive director of the authority. "Every time we put out a news release our telephone lines go haywire."

Much of the problem is that low-income people are not perceived as good credit risks. "If a low-income buyer has anything shaky on his credit record, he gets tossed out," said Elizabeth Wolff, head of the Dallas office of the Association of Community Organizations for Reform Now, or Acorn, a nonprofit agency. "Only the squeaky clean can qualify."

Clearly, mortgages for low-income groups have been a big part of the problem. Resolution Trust was authorized by Congress to help provide such financing but so far has done little. The banks, for their part, have been quick to turn down low-income applicants on the grounds that they present greater risk than others.

But housing advocates argue that lending to big investors is often chancier, as illustrated by the savings and loan crisis. At any

rate, if the housing program is to work, the processing of getting mortgages will have to be made easier for those with low incomes.

"I was naive to think that this program could work for the low income," said Skip Beaird, executive director of the Housing Resources Association, a nonprofit Austin agency. "We get 60 calls a day from people excited that there might be something for them. But there isn't."

Each Wednesday night, Mr. Beaird and an assistant, MaryLee Claborn, sit in a conference room at the Travis County Human Services Building painstakingly counseling low-income people on where to get a Resolution Trust property list, how to find a broker and where to apply for a mortgage.

But they can recall only 3 people ever getting a house of the 1,000 or so they have counseled or conversed with on housing issues.

"The R.T.C. has a brochure that says, 'If you're paying $250 a month or more in rent, the R.T.C. wants to help you own your home,'" Ms. Claborn said. "And every time I see that, I get angry, it's so misleading."

SPECULATION: HAWAIIAN INVESTORS FIND TEXAS DEALS

The Resolution Trust office in Dallas is in a gleaming high-rise in an exclusive neighborhood, where Jane Keefe, head of the agency's Southwestern Regional Affordable Housing Office, oversees the program. Through the program, she said, 1,134 Texas houses have been sold at an average price of $41,000.

About half these sales, she said, were to people below 80 percent median income, or under $35,000 a year for a family of four. "For us to have half our sales to the really low-income families, I'd say we're successful," she said.

But housing advocates question just how successful Resolution Trust is, even by its own tally. And they are raising some serious questions about who exactly is buying the homes.

Through the Freedom of Information Act, John J. Henneberger, director of the Texas Low Income Housing Information Service, a nonprofit corporation, obtained lists of houses that the agency said it sold in Texas under the program.

By comparing the Resolution Trust lists with courthouse deeds, Mr. Henneberger said he found that many of the properties the agency said it sold were never sold at all. Other properties, he said, were purchased by investment groups from as far away as Hawaii and many were bought for cash—in amounts up to $30,000. Many of these properties had passed through the 90-day window and were sold to investors.

Mr. Henneberger and other housing advocates suspect that brokers are lying low until after the 90-day period and then pushing these properties to buyers with ready cash.

In Austin, for instance, Mr. Henneberger's spot check turned up condominiums with initial appraisals as high as $95,000 being sold to Hawaiian investors at prices in the $20,000 to $30,000 range. These were then listed as affordable-housing sales.

Mr. Henneberger said many questions were raised by the data: How did condos with high appraisals get into the program in the first place?

"What's emerging is a lot of confusion," Mr. Henneberger said. "I'm increasingly convinced the R.T.C. doesn't know what sold under the program. So how can they continue to turn out reports to Congress, if they don't know?"

Ms. Keefe said the lists might have bookkeeping errors and she denied that houses were slipping with any frequency into the hands of well-off investors during the 90-day period.

But houses have slipped through.

Recently, Resolution Trust agreed to sell 36 Texas homes in the affordable-housing program to a Houston real estate broker who had formed a charity—the Lung Transplant Foundation Inc.—just a day before he submitted his bid. The houses were being sold to the broker for $500 each and his son was to have collected a $500 commission on each sale—or some $18,000 in all. But after an article about the transactions appeared on June 6 in The San Antonio Light, the agency canceled the sale.

A sizable number of the Texas sales have been all-cash sales—some 20 percent, according to the agency's Dallas office. The agency said low-income people were often suspicious of banks and kept their money at home or tapped relatives to help. Deborah Kroupa, a housing specialist with Acorn, the agency in Dallas, disputed this. Low-income people, she said, rarely have more than $1,000 or $2,000 in "mattress money."

Ms. Kroupa said the money came from speculators who could get a friend or a relative to qualify for the program, buy the property and pay cash so there was no paperwork. Several months later, the buyer moves out, the house is refinanced at a bank and is converted into valuable rental property. With the cash pulled out, the investor can buy again.

Ms. Kroupa should know. She said this was work she once did herself as a real estate buyer but stopped because she said her conscience bothered her. "It's a legal loophole."

Senator Howard M. Metzenbaum, Democrat of Ohio, said he would introduce a measure in Congress to extend the 90-day window to 180 days. Nearly all nonprofit agencies would like to see the trust corporation streamline its marketing and sales process as well as begin to offer seller financing and greater price discounts to low-income families.

And some individuals and organizations, Acorn, for instance, have started to work with private banks to broaden credit standards to make more low-income persons eligible for mortgages.

As Mr. Jordan, the Austin developer, put it, "It should be as easy for a low-income person to buy a house as it is for a low-income person to buy a car."

[From the New York Times, June 27, 1991]

HOUSING EARMARKED FOR THE POOR IS ENRICHING BIG INVESTORS INSTEAD

(By Leslie Wayne)

DALLAS.—A Federal program of housing for the poor is turning into profits for big real estate investors, led by one of America's business giants, the General Electric Company.

General Electric is about to become the biggest buyer under a Federal program in which nearly 500 apartment complexes taken over from failed savings and loan institutions are being sold by the Resolution Trust Corporation at discount prices to investors who agree to set aside 35 percent of the units for low-income families.

In real estate circles, all eyes are drawn to the G.E. deal. The company's financial and investment arm, the General Electric Capital Corporation, has agreed to buy 28 complexes with a total of 5,959 units in four Texas cities and six cities outside Texas—at a price estimated at nearly 50 percent of market value.

MANDATED BY CONGRESS

Such discounts are meant to encourage sales of apartment complexes with limited rent controls under an affordable-housing program, mandated by Congress two years ago, to provide apartments and houses at prices the working poor can afford and without requiring the Government to pay for public housing.

In fact, in the portion of the program involving single-family homes, relatively few residences appear to have gone to the poor. But in the separate apartment program, a further complication emerges. Big investors, including General Electric, have figured out ways to obtain whole complexes and make hefty profits by adhering to the letter, if not the spirit, of the new law.

Critics contend that the Government is selling far more of its apartment complexes to for-profit investors than to nonprofit organizations whose primary mission is to help provide proper housing for the poor.

Moreover, they say, a plan by General Electric and other large buyers to lump the low-income units together and segregate them from the rest will inevitably create slums of the future.

Resolution Trust denies it is discriminating against lower-income groups in the apartment sales but it also says it has a duty to realize as much money within the bounds of the law as possible to minimize the costs of the savings and loan bailout.

The General Electric purchase, seen by investors as the model for future deals with Resolution Trust, is part of the first major package of apartments put out for bid under the agency's affordable-housing program. The package has 193 Texas apartment complexes, built originally by private developers and foreclosed on by the Government.

GOING TO LARGE BUYERS

Of that batch, more than 100 received no bids, and the largest number of the rest are being sold in bulk to large buyers, whom the trust corporation declines to identify. A number of other complexes, some too small to attract big investors, are being purchased by nonprofit agencies.

With a cost estimated at $75 million, the General Electric deal is the largest real estate transaction negotiated by the trust corporation not only in the affordable-housing program, but in sales of all property taken over in the savings and loan crisis. It exceeds the $65 million sale in March of a Palm Springs hotel to a group of Japanese investors and the $44 million sale of the Centrust building in Miami last month.

By agreeing to set aside apartments for low-income tenants and by buying in bulk, General Electric gets 40 to 50 percent taken off the purchase price—a far steeper discount than General Electric would have received if it had bought the same complexes outside the trust corporation's affordable-housing program. This discount reduces the amount the Government will get back to trim the costs of the savings and loan bailout.

THE CRITICS: SEGREGATING THE POOR

Advocates of low-income housing contend that the General Electric arrangement is not socially sound or, in the long run, economically beneficial to the taxpayer.

They say the company's plan to segregate—"aggregate" in real estate parlance—poor residents into a few of the complexes miles away from the others runs counter to the policy goal of mixing low-income families with other income levels in the same complexes to provide what is regarded as a generally healthier community mix.

"The big players are making some great real estate deals, and in five years what they will have done for affordable housing is zilch," said James Ervin, a consultant to the Volunteers of America, one of the nation's largest nonprofit corporations. "This loophole allows private developers to sneak to the front of the line, pull out the cream properties, throw the rest back and create new slums."

Charles B. Gough, a consultant to the Dallas Housing Authority, said: "I don't believe aggregating affordable-housing tenants is the intent of the law."

G.E. DEFENDS PROPOSAL

General Electric and the trust corporation disagree, contending the plan is both necessary and legal. Brown Thurman, a G.E. special projects manager who represented the company in the transaction, said: "The R.T.C. needs to have flexibility, or I won't bid. I will provide housing for the low income, but don't tie my hands. We're here to make a profit. If you restrict me as to what I can do and cannot do. I may or may not want to play."

Stephen S. Allen, head of the trust corporation's affordable-housing program, agreed on the importance of flexibility and aggregation.

"Aggregation," he said, "is permitted in the law. We'll be at this forever if we sell assets one by one. Our goal is to get a range of services to sell in bulk."

Yet the law permits only the big buyers to "aggregate." Buyers of just one apartment complex are specifically required to scatter low-income tenants throughout all buildings in that complex and not relegate them to a single building. The ability to aggregate was specifically put into the law to entice large private investors to buy properties in bulk to help move Resolution Trust's assets quickly, Mr. Allen said.

Based on the numbers, Texas real estate experts said General Electric could expect an annual operating return of 13 to 15 percent under current market conditions—a return regarded as excellent in the current market.

This compares with the return of 8 percent to 10 percent investors are receiving on similar apartment complexes bought without the large discount. Should rents rise, G.E. could earn as much as 15 to 18 percent.

Under aggregation, a buyer can quickly sell the complexes unencumbered by rent controls to another buyer for an immediate profit. In G.E.'s case, the company may further reduce its commitment to low-income housing and improve its return through a plan to sell the rent-controlled complexes to a nonprofit agency, which is trying to raise about $27.6 million to buy the units from G.E.

One of the reasons General Electric is able to bid on this deal is that it is a sophisticated, well-capitalized company with deep pockets. Resolution Trust is providing seller financing for many of its commercial properties but so far little in the affordable-housing program. In the Texas package, it accepted only all-cash Texas package, it accepted only all-cash offers. The net effect, according to Mr. Thurman of G.E., is that "only those with money can play."

OBSTACLES: TOUGH GOING FOR AGENCIES

Though Resolution Trust says it is working to improve the program, the nonprofit groups say that doing business with it has thus far been tough going, indeed. Of the few nonprofit groups that have managed to buy in, many have found that the agency has driven such hard financial bargains that they cannot fill their units with the extremely poor, as they would like, and still cover their debts.

"You can't house the homeless and pay a mortgage," said Louis Kurtz, housing development director at the Austin-Travis County Mental Health Center, which has purchased two small properties. "If the R.T.C. were committed to housing the homeless, that would be reflected in the purchase price."

Mr. Gough, the consultant, is currently bidding on a 280-unit complex and a 296-unit complex for the Dallas Housing Authority. He said he would like to fill his units with more than 35 percent low-income people, which he would not aggregate, but cannot unless some Government agency provides rent subsidies. No such money is currently available.

He estimates that it will cost $250 to $275 a month to cover the operating costs on each of his units. That is nearly $200 a month more than the average rent paid by tenants in Dallas public housing. "There is no way that I can fill 20 percent of the complex with very-low-income tenants," Mr. Gough said.

50 TRIES, NO DEALS

One agency that has had a particularly difficult time is the Volunteers of America, the nation's 22d-largest charity, founded nearly a century ago to provide housing to the poor. After two years of trying to buy some 50 trust corporation properties, it has been unable to close a single deal.

The organization says it has had financing problems and, in many cases when it finally learned what properties were available, the properties were no longer in the program for some reason—or were not yet available for sale.

"We see this as a large opportunity to take care of housing for a large number of people," said Mr. Ervin, the Volunteers consultant. "But we've got limited resources."

Volunteers has tried to persuade the R.T.C. to help provide financing to buyers in the affordable-housing program by submitting a bid one some properties in the Texas package but with a second mortgage provided by the R.T.C.

The organization reasoned that the law required the trust corporation to provide financing to nonprofit buyers. But Resolution Trust turned down the bid.

"Affordable housing is the law," Mr. Ervin said. "It's a commitment from Congress and there should be an emphasis on making sure that what is the intention of the law occurs, and that's not happening. The R.T.C.'s job is to create affordable housing, not to find ways not to allow it."

FINANCING: PROGRAM PLANNED TO AID AGENCIES

Resolution Trust says it is working with the Federal National Mortgage Association to develop a financing program that will help the nonprofit groups. Resolution Trust's Oversight Board has now adopted a policy allowing the agency to offer financing to nonprofit agencies with as little as a 5 percent down payment.

Still, although financing is important, the nonprofit groups said it could not alone solve all their problems with Resolution Trust.

Mr. Kurtz of the Travis County Mental Health Department has $2.5 million in foundation grants to buy apartment complexes for his clientele—whose average income is about 17 percent of the area's median, or about $400 a month. The department has purchased 129 individual Austin apartments in eight locations on the open market.

But the Mental Health Department has also purchased one 20-unit apartment complex for $192,000 from Resolution Trust and has bid $320,000 for a 26-unit Austin complex. In the first case, Mr. Kurtz bid 85 percent of the agency's asking price, in the second one, 87 percent, hardly great discounts in his opinion.

Mr. Kurtz said he was not prepared for just how slow and confusing the process of buying would be. When he tried to submit a letter of intent to make a bid, the trust corporation asked him to get a resolution from his board authorizing him to look at the property.

Another resolution was needed to authorize him to bid. Another was needed to prove the agency was nonprofit. After Mr. Kurtz tried to submit the bid, he said he had to register with the trust corporation in order to do so. Then, after he thought he had a contract, the agency lost his down-payment check. A file clerk eventually found it.

To get information on other properties in the area, Mr. Kurtz said he had to know the name of the failed savings and loan that had owned the property.

Once his first bid was submitted, he said no one at the trust corporation could tell him whether it was accepted. And when he wanted to buy a second property, Mr. Kurtz could not resubmit some of the identical documents from the first time, but had to start all over again.

"It's driving me crazy," he said.

Nor, in Mr. Kurtz's opinion, did he get any break on price for his troubles. And, after bidding on the two properties, he saw an ad placed by Resolution Trust in The New York Times for a property next door to one he was buying that was better designed for his mentally ill tenants.

When he called the broker, he found that the property had already passed through the 90-day window during which properties are set aside exclusively for buyers agreeing to the affordable-housing restrictions and that some 10 investors had already put in bids.

Mr. Allen of Resolution Trust said things are getting better. "I don't think our procedure is bureaucratic or has a lot of red tape," he said, "and we are looking at ways the process can be improved."

But Mr. Kurtz remains skeptical. "I go to homeless conferences, and I see the faces of R.T.C. people there," Mr. Kurtz said, "But the R.T.C. is doing nothing to house the homeless."

[From the New York Times, June 27, 1991]

G.E. SEEKS TO SELL TO AGENCY BUILDINGS SET ASIDE FOR POOR

The General Electric Company has negotiated what critics say will be a highly profitable deal with the Government by taking advantage of a housing program intended to help the poor.

The company is now trying to reduce its initial costs even further. It is seeking $26.6 million in financing for a nonprofit agency it has selected as a business partner.

The partner would buy 12 apartment complexes from General Electric that G.E. has agreed to buy from the Government. These units would be set aside in a segregated area designed for low-income tenants.

That agreement is part of G.E.'s overall package in which the company gets 28 apartment complexes at a price said to be substantially below market value.

The nonprofit agency is the National Center for Housing Management, an organization in Washington that trains personnel to run low-income housing but which has little experience in managing such housing. An intermediary, the Salisbury Capital Corporation of New York, has approached the Texas

Housing Authority to issue $27.6 million in tax-exempt bonds to finance the deal.

The housing authority is cool to the idea. Sources in the authority cite the nonprofit agency's lack of direct experience. The authority is also said to suspect that Salisbury has overestimated the revenue to be earned and believes the plan is really intended to shift General Electric's risk on the low-income properties to the authority and bondholders.

No one at Salisbury, the National Center or G.E. would comment.•

By Mr. DASCHLE:

S. 1438. A bill to provide for international negotiations to seek increased equity in the sharing by foreign countries of the costs of maintaining military forces of the United States in such countries; to the Committee on Armed Services.

DEFENSE BURDEN SHARING

Mr. DASCHLE. Mr. President, this afternoon I am introducing legislation that asks America's military allies to share in the cost of their own defense.

This bill is similar to an amendment authored by my friend, Congressman BYRON DORGAN, and adopted by the House of Representatives in May. It asks three things: First, that the President negotiate cost-sharing agreements with our military allies to offset American tax dollars spent for their defense; second, that a fund be established into which other nations may contribute if the President is able to negotiate burden-sharing agreements with them; and third, that the administration provide Congress with an accounting of allied contributions—whether in cash or in kind—to that fund.

That is all, Mr. President. We simply want our allies to pay their fair share of our mutual defense costs; we want the President to initiate negotiations designed to achieve a more equitable distribution of those costs; and we want a clear accounting of allied contributions to this effort. This legislation says only that, 40 years after America rebuilt Europe, at a time when Japan and the European Economic Community is prospering and American workers and their Government are sorely pressed, the nations we have defended, and continue to defend, should be asked to contribute more to their own defense.

This bill does not target specific countries or amounts. It simply gives the President the authority and, frankly, the motivation to move forward and negotiate agreements to provide for the defense of those nations in a more realistic and equitable manner.

Throughout the 20th century, the United States has demonstrated its willingness to assert a leadership role in the world in defense of liberty and democratic principles. In turn, our allies have enjoyed the security of the U.S. defense umbrella. While this arrangement has served the interest of freedom and democracy well, the changing international environment dictates a fundamental reassessment of the nature of our Nation's defense relationships with our allies.

We have 395 bases in 35 different countries. We spend $28 billion a year overseas in direct costs for the defense of our allies. And, the indirect cost of that defense has been estimated at well over $100 billion.

The European members of NATO collectively have a gross national product greater than that of the United States. Despite that economic power, which will undoubtedly grow after the European Community is formally united in 1992, the people of the United States continue to spend more on NATO defenses than the other 15 alliance members combined.

Is that fair?

During Operation Desert Shield/Desert Storm, President Bush and Secretary Baker asked a similar question. Is it fair for the United States to take on the burden all on our own? And with unanimity within and without the administration, in this Congress, we said no; if we are going to commit ourselves to activity within the Persian Gulf it must be a shared responsibility. So too now, Mr. President, we must ask our allies for that shared responsibility.

During Operation Desert Shield/Desert Storm, President Bush and Secretary Baker skillfully constructed an alliance that included not only joint forces and a unified command, but also payments from the members of that alliance to a mutual defense cooperative fund that was used to prosecute the gulf war. The cooperation achieved during the gulf war has shown us that burden sharing can work. It is time to establish a more formal mechanism to promote such burden sharing arrangements in other parts of the world as well. Without such a mechanism, burden sharing will remain more rhetoric than reality.

To continue to grow and prosper, our alliances must recognize the changing international environment and the mutual burden that a regional defense pact should entail. The United States can no longer afford to defend the world alone. We have borne that burden far longer than any people should. It has cost us dearly, and frankly, it is not fair.

America will never shirk its international responsibilities. We believe too strongly in freedom and in peace. But America must now ask those to whom we have given so freely for so long to begin to share in the responsibility.

That is all this legislation seeks. It prepares us for a more equal partnership with our allies and a better understanding of the level of commitment that friends have toward each other. It is the least we can ask from our allies and for the American taxpayer.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1438

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFENSE OFFSET PAYMENTS.

(a) DEFENSE COST-SHARING AGREEMENTS.—The President shall consult with foreign nations to seek to achieve, within six months after the date of the enactment of this Act, an agreement on proportionate defense cost-sharing with each foreign nation with which the United States has a bilateral or multilateral defense agreement. Each such defense cost-sharing agreement should provide that such nation agrees to share equitably with the United States, through cash compensation or in-kind contributions, or a combination thereof, the costs to the United States of maintaining military personnel or equipment in that nation or otherwise providing for the defense of that nation.

(b) CONSULTATIONS.—In the consultations conducted under subsection (a), the President should make maximum feasible use of the Department of Defense and of the post of Ambassador at Large created by section 8125(c) of the Department of Defense Appropriations Act, 1989 (10 U.S.C. 113 note).

(c) ALLIES MUTUAL DEFENSE PAYMENTS ACCOUNTING.—The Secretary of Defense shall maintain an accounting for defense cost-sharing under each agreement entered into with a foreign nation pursuant to subsection (a). Such accounting shall show for such nation—

(1) the amount of cost-sharing contributions agreed to;

(2) the amount of cost-sharing contributions delivered to date;

(3) the amount of additional contributions of such nation to any commonly funded multilateral programs providing for United States participation in the common defense;

(4) the amount of contributions made by the United States to any such commonly funded multilateral programs;

(5) the amount of the contributions of all other nations to any such commonly funded multilateral programs; and

(6) the cost to the United States of maintaining military personnel or equipment in that nation or otherwise providing for the defense of that nation.

(d) REPORTING REQUIREMENTS.—(1) Not later than 180 days after the date of the enactment of this Act, and each 180 days thereafter, the President shall submit a report, in classified and unclassified form, to the appropriate committees of the Congress concerning efforts and progress in carrying out the provisions of subsections (a) and (b).

(2) Not later than 180 days after the date of the enactment of this Act, and each 180 days thereafter, the Secretary of Defense shall submit to the appropriate committees of the Congress a report containing the accounting of defense cost-sharing contributions maintained pursuant to subsection (c).

By Mr. JOHNSTON:

S. 1439. A bill to authorize and direct the Secretary of the Interior to convey certain lands in Livingston Parish, LA; to the Committee on Energy and Natural Resources.

LIVINGSTON PARISH LAND EXCHANGE

• Mr. JOHNSTON. Mr. President, today, I join my distinguished colleague Representative RICHARD BAKER,

Baton Rouge, in sponsoring legislation to aid a group of Livingston Parish residents in a long running dispute with the Federal Government over the legal ownership of the residents property.

The dispute involves a 640 acre tract of land which has been occupied as private property since prior to the Louisiana Purchase nearly 200 years ago.

The U.S. Interior Department's Bureau of Land Management has maintained that because no records exist transferring title to the land to private ownership at the time of the Louisiana Purchase, the area technically remains the property of the Federal Government.

Citing possible Federal mineral interests in the tract, the agency has blocked efforts by land holders to obtain patents that would establish legal ownership of the property.

The legislation introduced today would direct the Department of the Interior to formally convey the property to the occupants, while allowing the Department to retain mineral rights.

The failure of the Federal Government to acknowledge the private ownership of this land has caused tremendous and unnecessary legal burdens for the families who are affected. It is simply not fair these citizens continue to be haunted by some technical oversight that may have occurred some 200 years ago.

As chairman of the Senate Committee on Energy and Natural Resources I am committed to enactment of this measure this year. I strongly urge your support.●

By Mr. BRADLEY:

S. 1440. A bill to establish a National Scenic Coastal Area System; to the Committee on Commerce, Science, and Transportation.

NATIONAL SCENIC COASTAL AREA SYSTEM ACT

● Mr. BRADLEY. Mr. President, I rise today to introduce the National Scenic Coastal Area System Act. This legislation is designed to help coastal towns to plan for a future that preserves the unique features of their environment. This bill will provide a way by which scenic coastal areas can be managed as living landscapes where private ownership, existing communities, and established land uses can be maintained, even as outstanding public values are protected.

Mr. President, for the past three or four years, we have had underway in New Jersey "National Wild and Scenic River" studies—for the Great Egg River on the Atlantic coast and the Maurice, Manumuskin, and Menantico Rivers off the Delaware Bay.

In both cases, local communities came to the Congress asking for help. We passed a law and asked the National Park Service to assist local planners in studying these areas. The efforts allowed local communities to organize, with Federal help, and to begin the process of identifying and protecting unique river resources.

In one case, the Great Egg, the local communities have more or less coalesced and developed a comprehensive management plan. In the other case, there has been less harmony. But in both cases, the process itself has focused the debate on the ecological and cultural values of the rivers and their futures. The Wild and Scenic River program brought local communities together to debate and decide their own futures.

Mr. President, unique coastal communities should have some of the same opportunities. Often, in any growing town or area, there are natural and cultural values at risk. If there is an interest at the local level in protection or preservation, we should be able to lend a helping hand. The legislation that I am introducing today, the National Scenic Coastal Area System bill, would offer an outstretched hand. When you live in a coastal area, you are the most aware of special qualities—unique scenic vistas, a pattern of development that was sensitive to the ocean environment unique natural habitat, an historic quality, and so forth. And in most cases, the protection of these special qualities will depend on the local citizens. For these communities, this bill would:

First, give local citizens a goal to shoot for—designation as a National Scenic Coastal Area;

Second, give them Federal assistance for planning or management;

Third, assist them in the actual protection of the land; for example, the bill encourages the development of locally controlled land trusts which could acquire critical lands or easements by purchase from willing sellers or donations;

Fourth, pledge the Federal Government to live by an approved management plan; for example, there would be no Federal assistance for roads, dredging, or dredge spoil disposal that was incompatible with the local plan; and

Fifth, recognize the area as a National Scenic Coastal Area.

What communities would be able to apply for this assistance? The bill provides for the Secretary of the Interior to establish guidelines which will lay out the specifics of who can quality and how to apply for assistance. However, it is my intention to encourage the broadest participation. My legislation does not target only undeveloped windswept ocean beaches. It is not a replacement for wildlife refuges or state parks or national seashores. Rather, it is a complement to these programs.

My bill will use a broad brush. For instance, I hope this legislation to reach out to coastal communities in the Delaware Bay that have developed amongst the beautiful and spectacularly productive salt water marshes. Places like Reeds Beach and Pierces Point are surrounded by critical wetlands. Another example of what should be included is that classic expression of family recreation—the boardwalk—which represents another important ocean scene. In a community like Ocean City, NJ, where generations have strolled the wooden boardwalk at dawn or dusk, there is a living metaphor for family values and American history. How does a community preserve boardwalk scenery and the village atmosphere? These towns are under enormous pressure to increase density, put up the highrises, raze the older houses to make way for the new. We are not going to stop growth but, perhaps, we can ensure that such growth does not compromise the unique scenic values that attract us in the first place.

Mr. President, consider an island on the New Jersey shore called Long Beach Island. It is a beautiful stretch of Atlantic seashore. A recently completed Army Corps dredging project has left many local citizens concerned about side effects that might be destroying their beaches. A large jetty, the citizens maintain, is stopping the normal flow of sand down the coast. The outcome that they see is a shrinking barrier island. Under my legislation, this island could potentially become a national scenic coastal area. If so, this Federal project could not go forward unless it was reviewed and found compatible with plans to protect the island. Right now, the citizens know only that the project is complete and their beach is shrinking. No one has proved cause and effect. But, clearly, the best time to raise these issues and resolve them is before the project is underway. When our most fragile ocean areas are at risk, and already protected by the communities themselves, my legislation will force the Federal Government to have the same level or concern and caution. It is not just the caricature of a greedy developer that can destroy a coast line. The Federal Government, perhaps inadvertently, can do the same.

I emphasize for my colleagues that his is not a Federal Government—strong arm bill. There is no Federal condemnation authority. It is not a no growth plan, either, although it might shift local priorities and development plans. This legislation will help local coastal communities consider their future and act, if they wish, to protect the seashore qualities that they value most, even as these communities continue to grow, expand, evolve.

I ask unanimous consent to have the text of the bill printed following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Scenic Coastal Area System Act".

SEC. 2. FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) the Nation's coasts provide important recreational opportunities for increasing numbers of Americans;

(2) pressures associated with increasing human populations near the coasts, including pollution and uncoordinated development, threaten coastal lands and waters and diminish their recreational and scenic values; and

(3) traditionally, coastal areas of national significance have been given a degree of protection through direct public acquisition and management as national parks, seashores, and wildlife refuges, but protection by such means is costly and needlessly excludes compatible uses of the coastal area that often are an integral or defining part of the coastal landscape.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a system of scenic coastal areas of regional or national significance protected through a partnership of local, State, and Federal governments;

(2) to encourage local efforts to protect scenic coastal areas through innovative means, including the use of land trusts, conservation easements, and other cooperative mechanisms;

(3) to increase the cost-effectiveness of efforts to conserve coastal resources by providing an alternative to reliance on public acquisition and Federal management; and

(4) to provide a mechanism by which scenic coastal areas can be managed as living landscapes in which private ownership, existing communities, and established land uses can be maintained, even as outstanding public values are protected.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "coast" means a shoreline border of a State on the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, one of the Great Lakes, and their adjacent or connecting sounds, bays, harbors, roadsteads, shallows, marshes, lagoons, bayous, ponds and estuaries;

(2) the term "coastal lands" means lands extending landward from a coast, including waters lying in or flowing through such lands;

(3) the term "coastal waters" means waters extending seaward of a coast, including islands lying therein;

(4) the term "land trust" means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation pursuant to section 501(a) of the Code and that is organized for the purpose of acquiring lands and interests in land in a scenic coastal area and holding and managing such lands and interests in land in trust for the benefit of the public;

(5) the term "scenic coastal area" means a scenic coastal area designated as such by enactment of a law described in section 8(b)(2);

(6) the term "scenic coastal area commission" means a scenic coastal area commission established under section 7;

(7) the term "Secretary" means the Secretary of the Interior;

(8) the term "State" includes a State of the United States, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, the Trust Territories of the Pacific Islands and American Samoa; and

(9) the term "system" means the National Scenic Coastal System established by section 3(a).

SEC. 4. ESTABLISHMENT OF SYSTEM.

(a) IN GENERAL.—There is established the National Scenic Coastal Area System, comprised of scenic coastal areas, which shall be administered by the Secretary.

(b) REGULATIONS.—The Secretary shall by regulation—

(1) designate an office in the Department of the Interior that will be responsible—

(A) for providing assistance to State and local governments pursuant to section 5(a);

(B) reviewing proposed coastal area plans pursuant to section 9(b);

(C) reviewing applications for cost-sharing grants pursuant to section 10; and

(D) monitoring the implementation of scenic coastal area plans; and

(2) specify criteria for the designation of scenic coastal areas that encourage biogeographic diversity and the representation of regionally and nationally important coastal landscapes within the system.

SEC. 5. ADVISORY AND TECHNICAL ASSISTANCE.

(a) ASSISTANCE IN PREPARATION OF PRELIMINARY STUDIES.—The Secretary shall provide advisory and technical assistance to a unit of State or local government or a scenic coastal area commission in the preparation of a preliminary study required by section 7 and in the preparation of a scenic coastal area plan required by section 9.

(b) THRESHOLD SHOWING.—Before committing resources to the rendering of assistance in the preparation of a preliminary study, the Secretary may require a threshold showing that—

(1) a proposed scenic coastal area possesses attributes that warrant protection under this Act; and

(2) there is a reasonable amount of local public support for the conduct of a study to determine whether the area should be designated as a scenic coastal area.

SEC. 6. PUBLIC PARTICIPATION.

(a) IN GENERAL.—A preliminary study described in section 7 and a scenic coastal area plan described in section 9 shall be conducted with full public participation, in accordance with such requirements as the Secretary may prescribe to ensure that all interested persons have ample opportunity to make their interests known.

(b) NOTICE AND HEARING.—Public participation under subsection (a) shall include—

(1) actual notice to each landowner in the proposed scenic coastal area and reasonable public notice to residents of the vicinity of the proposed scenic coastal area; and

(2) live hearings and opportunity to submit evidence and written comment.

SEC. 7. PRELIMINARY STUDIES.

(a) IN GENERAL.—The process of designating a scenic coastal area shall begin with a preliminary study by a unit of State or local government or a scenic coastal area commission pursuant to this subsection.

(b) PURPOSES.—The purposes of a preliminary study shall be to obtain—

(1) a description of the specific significant archaeological, biological, historical, wilderness, recreational, or other values possessed by the proposed scenic coastal area that warrant protection under this Act;

(2) a map of the proposed scenic coastal area; and

(3) an assessment of the local public support of and opposition to the proposed designation; and

(4) an assessment of the prospects of producing a scenic coastal area plan that satisifies the requirement of section 9(a), including a detailed description of—

(A) the specific public benefits, such as water access, scenic views, improved fisheries, and increased tourism that are anticipated; and

(B) the methods of protection, such as the use of land trusts, zoning, and easements, that would primarily be used.

(c) FURTHER ACTION.—(1) The findings of a preliminary study and recommendation for further action shall be submitted to the Governor and legislature of the State in which the proposed scenic coastal area is located.

(2) The Governor of the legislature of a State, as State law may allow, shall make a determination whether to nominate a scenic coastal area for inclusion in the system, and to proceed with preparation of a scenic coastal area plan in support of the nomination.

SEC. 8. SCENIC COASTAL AREA COMMISSIONS.

(a) IN GENERAL.—A coastal area plan for a nominated scenic coastal area shall be prepared and implemented by or under the guidance of a scenic coastal area commission established for the purpose of preparing and implementing a coastal area plan for a single scenic coastal area or for a group of scenic coastal areas.

(b) ESTABLISHMENT.—(1) A scenic coastal area commission may be established by action of the Governor, legislature, or other unit of State or local government that, under either general or specific authority of State law, has power to establish such a commission.

(2) The members of a scenic coastal area commission shall include—

(A) at least 1 representative of the State agencies with responsibility for parks or the environment;

(B) at least 1 representative of the State agenices with responsibility for planning, transportation, or costal zone management;

(C) at least 1 representative of the governments of the country, city, town, and other jurisdictions in which the nominated scenic coastal area is situated;

(D) 1 representative of a land trust that operates within the area of the nominated scenic coastal area;

(E) at least 2 representatives of residents of the vicinity of the nominated scenic coastal area, who are not local government officials, appointed by the Governor of the State in which a nominated scenic coastal area is located; and

(F) 1 representative of each Federal agency that manages land in the nominated scenic coastal area, appointed by the head of the agency.

(3) Members of a scenic coastal area commission shall be appointed for renewable terms of 3 years, except that in the initial appointment of members, one-third of their number shall be appointed from terms of 1 year and one-third of terms of 2 years.

(c) DUTIES.—The duties of a scenic coastal area commission are to—

(1) prepare and review a scenic coastal area plan pursuant to section 9;

(2) act as the lead management agency for the scenic coastal area;

(3) monitor and facilitate implementation of the scenic coastal area plan;

(4) interpret and apply the scenic coastal area plan in light of changing circumstances;

(5) ensure that there is continued public participation in the administration of the scenic coastal area;

(6) work to ensure that the scenic coastal area plan is follwed by landowners and local governments;

(7) exercise authority to carry out land use and conservation planning (including authority to administer zoning and permit programs); and

(8) coordinate management and development of the scenic coastal area among Federal, State, and local governments.

SEC. 9. SCENIC COASTAL AREA PLANS.

(a) IN GENERAL.—A scenic coastal area commission, in consultation with Federal, State, and local agencies with land management responsibilities and with public participation as described in section 6, shall prepare a scenic coastal area plan for a nominated scenic coastal area that—

(1) defines the boundaries of the coastal lands and coastal waters that are to be included in the scenic coastal area;

(2) describes the specific significant archaeological, biological, historical, recreational, scenic, wilderness, or other values that the scenic coastal area possesses that warrant protection under this Act;

(3) assesses the condition of the lands and waters in the scenic coastal area and of indigenous populations of shellfish, fish, wildlife, plants, and their habitats;

(4) describes the protections that are afforded to the lands, waters, and wildlife in the proposed scenic coastal area under existing Federal, State, and local law;

(5) describes the benefits to the public, such as increased recreational opportunities, and the anticipated effect on the State and local economy including benefits such as increased tourism and detriments such as restrictions on business activity, that its designation as a scenic coastal area and management under the scenic coastal area plan would cause;

(6) prescribes measures to be taken to preserve its values, achieve the anticipated benefits of its designation, and minimize any adverse effects that may result from its designation as a scenic coastal area;

(7) states the scientific and other information that supports the identification of the values of the proposed scenic coastal area and the approach taken in the plan to protect them;

(8) describes the roles of Federal, State, and local government and of the private sector in implementing the scenic coastal area plan, including recommendation of any changes in law and any government or private funding that may be necessary to implement the scenic coastal area plan;

(9) makes recommendations, including a statement of objectives, policies, and priorities to guide public and private land use decisions and public acquisition of land and interests in land in the scenic coastal area;

(10) describes the land and water uses that are permitted by State and local law in the scenic coastal area, and changes in the law that will accompany designation of the scenic coastal area, and the efforts that the State and local governments have made and will make to enforce any restrictions in land or water use that apply or will apply in the scenic coastal area;

(11) includes a map of the scenic coastal area that describes the land use restrictions that apply or will apply to each property in the scenic coastal area, unless that information can be clearly conveyed without the use of a map;

(12) certifies that the scenic coastal area commission has been authorized by State or local law to perform the functions of a scenic coastal area commission under this Act with respect to the coastal area, with a description of the existing or proposed personnel and facilities of the scenic coastal area commission;

(13) certifies that 1 or more land trusts have been established and can operate within the scenic coastal area; and

(14) describes the relationship between the scenic coastal area plan and the State's coastal zone management plan.

(b) SUBMISSION TO THE SECRETARY AND THE CONGRESS.—(1) A scenic coastal area commission shall submit a scenic coastal area plan to the Secretary of the Interior, who shall—

(A) approve the scenic coastal area plan and submit it to Congress; or

(B) return the scenic coastal area plan to the scenic coastal area commission with suggestion for modification or for additional research, public hearings, or other action that the Secretary determines are necessary before the scenic coastal area plan can be approved.

(2) A nominated scenic coastal area shall be included in the system upon enactment of a law approving a scenic coastal area plan submitted to the Congress pursuant to paragraph (1)(A).

SEC. 10. GRANTS.

The Secretary may make grants to pay up to 50 percent of the following costs:

(1) The direct costs to a State or local government or a scenic coastal area commission in the preparation of a scenic coastal area plan.

(2) The direct transaction costs, such as the costs of surveys, appraisals, and title searches, to a donor in making and a State or local government or a land trust in accepting a donation of land or an interest in land in a scenic coastal area consistent with a scenic coastal area plan.

(3) The costs of a State or local government or at land trust in purchasing land or an interest in land in a scenic coastal area and managing it in accordance with a scenic coastal area plan.

(4) The costs of constructing and maintaining, consistent with a scenic coastal area plan—

(A) scenic overlooks on highways in or overlooking a scenic coastal area; and

(B) road access to a scenic coastal area and to public facilities therein.

SEC. 11. RESTRICTION ON FEDERAL ACTIONS.

No department, agency, or instrumentality of the United States shall make an expenditure or take an action with respect to land or an interest in land, in a scenic coastal area, including the acquisition of land or an interest in land, unless the activity for which the expenditure is made or the action is consistent with the scenic coastal area plan for the scenic coastal area.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of the Interior—

(1) $20,000,000 for fiscal year 1993, $25,000,000 for fiscal year 1994, and $40,000,000 for fiscal year 1995 for the making of grants under section 10; and

(2) such sums as are necessary to administer the system under this Act.

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. CRANSTON, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 21, a bill to provide for protection of the public lands in the California desert.

S. 67

At the request of Mr. THURMOND, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 67, a bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax.

S. 68

At the request of Mr. THURMOND, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 68, a bill to amend title 10, United States Code, to authorize the appointment of chiropractors as commissioned officers in the Armed Forces to provide chiropractic care, and to amend title 37, United States Code, to provide special pay for chiropractic officers in the Armed Forces.

S. 140

At the request of Mr. WIRTH, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 140, a bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes.

S. 308

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 308, a bill to amend the Internal Revenue Code of 1986 to permanently extend the low-income housing credit.

S. 310

At the request of Mr. PELL, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 310, a bill to provide for full statutory wage adjustments for prevailing rate employees, and for other purposes.

S. 323

At the request of Mr. CHAFEE, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 323, a bill to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes.

S. 401

At the request of Mr. DOMENICI, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to exempt from the luxury excise tax parts or accessories installed for the use of passenger vehicles by disabled individuals.

S. 448

At the request of Mr. SYMMS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 448, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 473

At the request of Mr. DECONCINI, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor

of S. 473, a bill to amend the Lanham Trademark Act of 1946 to protect the service marks of professional and amateur sports organizations from misappropriation by State lotteries.

S. 597

At the request of Mr. DODD, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 597, a bill to amend the Public Health Service Act to establish and expand grant programs for evaluation and treatment of parents who are abusers and children of substance abusers, and for other purposes.

S. 612

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 612, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 747

At the request of Mr. PRYOR, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 747, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the Code relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 914

At the request of Mr. GLENN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 914, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 924

At the request of Mr. KENNEDY, the names of the Senator from New York [Mr. MOYNIHAN] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 924, a bill to amend the Public Health Service Act to establish a program of categorical grants to the States for comprehensive mental health services for children with serious emotional disturbance, and for other purposes.

S. 1261

At the request of Mr. DOLE, the names of the Senator from New Hampshire [Mr. SMITH] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1270

At the request of Mr. MCCAIN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1270, a bill to require the heads of departments and agencies of the Federal Government to disclose information concerning U.S. personnel classified as prisoners of war or missing in action.

S. 1327

At the request of Mr. BINGAMAN, the names of the Senator from Texas [Mr. BENTSEN] and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of S. 1327, a bill to provide for a coordinated Federal program that will enhance the national security and economic competitiveness of the United States by ensuring continued U.S. technological leadership in the development and application of national critical technologies, and for other purposes.

S. 1332

At the request of Mr. BAUCUS, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Georiga [Mr. NUNN], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 1332, a bill to amend title XVIII of the Social Security Act to provide relief to physicians with respect to excessive regulations under the medicare program.

S. 1358

At the request of Mr. GRAHAM, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1358, a bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a hospice care pilot program and to provide certain hospice care services to terminally ill veterans.

S. 1381

At the request of Mr. GRAHAM, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1381 a bill to amend chapter 71 of title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with disability compensation.

S. 1383

At the request of Mr. MCCAIN, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1383, a bill to amend title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by members and former members of the uniformed services and their dependents who are entitled to retired or retainer pay and who are otherwise ineligible for such payment by reason of their entitlement to benefits under title XVIII of the Social Security Act because of a disability, and for other purposes.

S. 1398

At the request of Mr. REID, the names of the Senator from Missouri [Mr. BOND], the Senator from Iowa [Mr. HARKIN], the Senator from North Carolina [Mr. HELMS], the Senator from Hawaii [Mr. INOUYE], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1398, a bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from certain rules for determining contributions in aid of construction.

S. 1426

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 1426, a bill to authorize the Small Business Administration to conduct a demonstration program to enhance the economic opportunities of startup, newly established, and growing small business concerns by providing loans and technical assistance through intermediaries.

SENATE JOINT RESOLUTION 8

At the request of Mr. BURDICK, the names of the Senator from Indiana [Mr. LUGAR], and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Joint Resolution 8, a joint resolution to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991, and November 22, 1992, as "National Family Week."

SENATE JOINT RESOLUTION 78

At the request of Mr. BENTSEN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of Senate Joint Resolution 78, a joint resolution to designate the month of November 1991 and 1992 as "National Hospice Month."

SENATE JOINT RESOLUTION 140

At the request of Mr. WARNER, the names of the Senator from Colorado [Mr. BROWN], and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Joint Resolution 140, a joint resolution to designate the week of July 27 through August 2, 1991, as "National Invent America! Week."

SENATE JOINT RESOLUTION 141

At the request of Mr. WARNER, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Joint Resolution 141, a joint resolution to designate the week beginning July 21, 1991, as "Korean War Veterans Remembrance Week."

SENATE JOINT RESOLUTION 157

At the request of Mr. ROCKEFELLER, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 157, a joint resolution to designate the week beginning November 10, 1991, as "Hire a Veteran Week."

SENATE JOINT RESOLUTION 173

At the request of Mr. DOLE, the names of the Senator from Washington [Mr. ADAMS], the Senator from Hawaii [Mr. AKAKA], the Senator from Alaska [Mr. STEVENS], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Joint Resolution 173, a joint resolution designating 1991 as the 25th anniversary year of the formation of the Presi-

dent's Committee on Mental Retardation.

SENATE JOINT RESOLUTION 174

At the request of Mr. GRAHAM, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Joint Resolution 174, a joint resolution designating the month of May 1992, as "National Amyotrophic Lateral Sclerosis Awareness Month."

SENATE RESOLUTION 116

At the request of Mr. ROTH, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from North Dakota [Mr. BURDICK], the Senator from Wisconsin [Mr. KASTEN], the Senator from Idaho [Mr. CRAIG], and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of Senate Resolution 116, a resolution to express the sense of the Senate in support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE RESOLUTION 150

At the request of Mr. MOYNIHAN, the names of the Senator from Oregon [Mr. PACKWOOD], the Senator from Connecticut [Mr. DODD], the Senator from Ohio [Mr. GLENN], the Senator from Hawaii [Mr. AKAKA], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Resolution 150, a resolution expressing the sense of the Senate urging the President to call on the President of Syria to permit the extradition of fugitive Nazi war criminal Alois Brunner.

SENATE RESOLUTION 152—CHANGING MINORITY COMMITTEE APPOINTMENTS

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 152

Resolved, That the following Senator shall be added to the minority party's membership on the Committee on Foreign Relations for the One Hundred Second Congress or until their successors are appointed:

Mr. Jeffords.

AMENDMENTS SUBMITTED

VIOLENT CRIME CONTROL ACT

SIMON (AND KOHL) AMENDMENT NO. 520

Mr. SIMON (for himself and Mr. KOHL) proposed an amendment to the bill (S. 1241) to control and reduce violent crime; as follows:

Amend amdt. No. 518 (Thurmond) as follows:

In the first section (b)(B)(i)(I) insert after "literacy," "or in the case of an individual with a disability, achieves a level of functional literacy commensurate with his or her ability.".

In (b)(B)(iii) strike all after "appropriate education services" and insert in lieu: "and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the jail or detention center.".

Strike all of (b)(2)(D).

In (c)(2)(D) insert after "literacy" the following: "and the names and types of tests that were used to determine disabilities affecting functional literacy.".

BIDEN AMENDMENT NO. 521

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

Add at the end of the bill the following:

TITLE—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home;

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprive victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business and in places involved in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence, motivated by gender" means any crime of violence, as defined in paragraph (2), committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offense described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

D'AMATO AMENDMENT NO. 522

(Ordered to lie on the table.)

Mr. D'AMATO submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . SHORT TITLE.

This amendment may be cited as the Money Laundering Improvements Act of 1991.

TITLE —FORFEITURE PROCEDURES IN MONEY LAUNDERING CASES

SEC. . JURISDICTION IN CIVIL FORFEITURE CASES.

(a) IN GENERAL.—Section 1355 of title 28, United States Code, is amended by designating the existing matter as subsection (a), and by adding the following new subsections:

"(b) (1) A forfeiture action or proceeding may be brought in the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred, or in any other district where venue for the forfeiture action or proceeding is specifically provided by section 1395 of this title or any other statute.

"(2) Whenever property subject to forfeiture under the laws of the United States is located in a foreign country, or has been detained or seized pursuant to legal process or competent authority of a foreign government, an action or proceeding for forfeiture may be brought as provided in paragraph (1), or in the United States District Court for the District of Columbia.

"(c) "In any case in which a final order disposing of property in a civil forfeiture action or proceeding is appealed, removal of the property by the prevailing party shall not deprive the court of jurisdiction. Upon mo-

tion of the appealing party, the district court or the court of appeals shall issue any order necessary to preserve the right of the appealing party to the full value of the property at issue, including a stay of the judgment of the district court pending appeal or requiring the prevailing party to post an appeal bond.".

SEC. . CIVIL FORFEITURE OF FUNGIBLE PROPERTY.

(a) Chapter 46 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 984. Civil Forfeiture of Fungible Property

"(a) This section shall apply to any action for forfeiture brought by the United States.

"(b) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution, or other fungible property, it shall not be necessary for the government to identify the specific property involved in the offense that is the basis for the forfeiture, nor shall it be a defense that the property involved in such an offense has been removed and replaced by identical property. Except as provided in subsection (c), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

"(c) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than one year from the date of the offense.

"(d) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be taken against an account of an agency or branch of a foreign bank (as such terms are defined in paragraphs 1 and 3 of section 1(b) of the International Banking Act of 1978) held in the United States at another financial institution where said agency or branch is not itself a party to the offense that is the basis for the forfeiture.".

(b) The amendments made by this section shall apply retroactively.

(c) The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"984. Civil forfeiture of fungible property.".

SEC. . ADMINISTRATIVE SUBPOENAS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"985. Administrative Subpoenas

"(a) (1) For the purpose of conducting a civil investigation in contemplation of a civil forfeiture proceeding under this title or the Controlled Substances Act, the Attorney General may—

"(A) administer oaths and affirmations;

"(B) take evidence; and

"(C) by subpoena, summon witnesses and require the production of any books, papers, correspondence, memoranda, or other records which the Attorney General deems relevant or material to the inquiry. Such subpoena may require the attendance of witnesses and the production of any such records from any place in the United States at any place in the United States designated by the Attorney General.

"(2) The same procedures and limitations as are provided with respect to civil investigative demands in subsections (g), (h), and (j) of section 1968 of title 18, United States Code, apply with respect to a subpoena issued under this subsection. Process required by such subsections to be served upon the custodian shall be served on the Attorney General. Failure to comply with an order of the court to enforce such subpoena shall be punishable as contempt.

"(3) In the case of a subpoena for which the return date is less than 5 days after the date of service, no person shall be found in contempt for failure to comply by the return date if such person files a petition under paragraph (2) not later than 5 days after the date of service.

"(4) A subpoena may be issued pursuant to this subsection at any time up to the commencement of a judicial proceeding under this section."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code is amended by adding the following:

"985. Administrative Subpoenas."

SEC. . PROCEDURE FOR SUBPOENAING BANK RECORDS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"986. Subpoenas for Bank Records

"(a) At any time after the commencement of any action for forfeiture brought by the United States under this title or the Controlled Substances Act, any party may request the Clerk of the Court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution, as defined in 31 U.S.C. 5312(a), to produce books, records and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 985 of this title shall apply to subpoenas issued under this section.

"(b) Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the subpoena and the custodian of records. The party requesting the subpoena may require the custodian of records to submit an affidavit certifying the authenticity and completeness of the records and explaining the omission of any records called for in the subpoena.

"(c) Nothing in this section shall preclude any party from pursuing any form of discovery pursuant to the Federal Rules of Civil Procedure."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"986. Subpoenas for Bank Records."

Title .—Money Laundering

SEC. . DELETION OF REDUNDANT AND INADVERTENTLY LIMITING PROVISIONS IN 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "section 1341 relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),"; and

(2) by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act".

SEC. . USE OF GRAND JURY INFORMATION FOR BANK FRAUD AND MONEY LAUNDERING FORFEITURES.

Section 3322(a) of title 18, United States Code, is amended—

(1) by striking "section 981(a)(1)(C)" and inserting "section 981(a)(1)"; and

(2) by inserting "or money laundering" after "concerning a banking law".

SEC. . STRUCTURING TRANSACTIONS TO EVADE CMIR REQUIREMENTS.

(a) Section 5324 of title 31, United States Code, is amended—

(1) by designating the existing provisions as subsection (a);

(2) by adding at the end the following new subsection:

"(b) No person shall for the purpose of evading the reporting requirements of section 5316—

"(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file such a report;

"(2) file or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

(b) CONFORMING AMENDMENT. Section 5321(a)(4)(C) of title 31, United States Code, is amended by striking "under section 5317(d)".

(c) FORFEITURE. (1) Section 981(a) of title 18, United States Code, is amended by striking "5324" and inserting "5324(a)"; and

(2) Section 5317(c) of title 31, United States Code, is amended by inserting after the first sentence the following: "Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5324(b), or any property traceable to such property, may be seized and forfeited to the United States Government."

SEC. . DISCLOSURE OF GEOGRAPHIC TARGETING ORDER.

Section 5326 of title 31, United States Code, is amended by adding the following new subsection:

"(c) No finanical institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of or terms of the order to any person except as prescribed by the Secretary."

SEC. . CLARIFICATION OF DEFINITION OF FINANCIAL INSTITUTIONS IN 18 U.S.C. 1956 AND 1957.

(a) Section 1957(f)(1) of title 18, United States Code, is amended by striking "financial institution (as defined in section 5312 of title 31)" and inserting in lieu thereof "financial institution (as defined in section 1956)".

(b) Section 1956(c)(6) of title 18, United States Code, is amended by striking "and the regulations" and inserting in lieu thereof "or the regulations".

SEC. . DEFINITION OF FINANCIAL TRANSACTION IN 18 U.S.C. 1956.

Section 1956(c)(4)(A) of title 18, United States Code, is amended—

(1) by striking ", which in any way or degree affects interstate or foreign commerce," and inserting that same stricken language after "a transaction"; and

(2) by inserting after "monetary instruments" the following: ", or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft,".

SEC. . OBSTRUCTING A MONEY LAUNDERING INVESTIGATION.

Section 1510(b)(3)(B)(i) is amended by striking "or 1344" and inserting in lieu thereof ", 1344, 1956, 1957, or chapter 53 of title 31 (31 U.S.C. 5311 et seq.)".

SEC. . AWARDS IN MONEY LAUNDERING CASES.

Section 524(c)(1)(B) of title 28, United States Code, is amended by inserting "or of

sections 1956 and 1957 of title 18, sections 5313, and 5324 of title 31, and section 6050I of title 26, United States Code" after "criminal drug laws of the United States".

SEC. . PENALTY FOR MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by inserting at the end the following new subsection:

"(g) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. . TECHNICAL AND CONFORMING AMENDMENTS TO MONEY LAUNDERING PROVISION.

(a) Paragraph (a)(2) and subsection (b) of section 1956 of title 18, United States Code, are amended by striking "transportation" each place it appears and inserting in lieu thereof "transportation, transmission, or transfer";

(b) Subsection (a)(3) of section 1956 of title 18, United States Code, is amended by striking "represented by a law enforcement officer" and inserting in lieu thereof "represented".

SEC. . PRECLUSION OF NOTICE TO POSSIBLE SUSPECTS OF EXISTENCE OF A GRAND JURY SUBPOENA FOR BANK RECORDS IN MONEY LAUNDERING AND CONTROLLED SUBSTANCE INVESTIGATIONS.

Section 1120(b)(1)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420(b)(1)(A)) is amended by inserting before the semicolon "or crime involving a violation of the Controlled Substance Act, the Controlled Substances Import and Export Act, sections 1956 or 1957 of title 18, sections 5313, 5316 and 5324 of title 31, or section 6050I of title 26, United States Code".

SEC. . DEFINITION OF PROPERTY FOR CRIMINAL FORFEITURE

Section 982(b)(1)(A) of title 18, United States Code, is amended by striking "(c)" and inserting "(b), (c)".

SEC. . EXPANSION OF MONEY LAUNDERING AND FORFEITURE LAWS TO COVER PROCEEDS OF FOREIGN VIOLENT CRIMES.

Sections 981(a)(1)(B) and 1956(c)(7)(B) of title 18, United States Code, are each amended by—

(1) inserting "(i)" after "against a foreign nation involving"; and

(2) inserting "or (ii) kidnapping, robbery, or extortion" after "Controlled Substances Act)".

SEC. . ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited."

SEC. . NEW MONEY LAUNDERING PREDICATE OFFENSES

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by deleting "or" before "section 16" and inserting ", or any felony violation of the Foreign Corrupt Practices Act (15 U.S.C. §78dd–1 et seq.)" before the semi-colon; and

(2) by inserting "section 1708 (theft from the mail)," before "section 2113".

Title .—Bank Secrecy and Right to Financial Privacy Amendments

SEC. . AMENDMENTS TO THE BANK SECRECY ACT.

(a) Section 5324 of title 31, United States Code, is amended by adding the words "or section 5325 or the regulations thereunder" after the words "section 5318(a)," each time they appear.

(b) Section 5318 of title 31, United States Code is amended by adding new subsections (g) and (h), as follows:

"(g)(1) The Secretary may prescribe that financial institutions report suspicious transactions relevant to possible violation of law or regulation.

"(2) A financial institution may not notify any person involved in the transaction that the transaction has been reported.

"(3) The provisions of section 1103(c) of the Right to Financial Privacy Act of 1978 (Title XI of Public Law 95–630, as amended, 12 U.S.C. 3403(c)) shall apply to reports of suspicious transactions under this section.

"(h) In order to guard against money laundering through financial institutions, the Secretary may require financial institutions to have anti-money laundering programs, including at a minimum, the development of internal policies, procedures and controls, designation of a compliance officer, an ongoing employee training program, and an independent audit function to test the program. The Secretary may promulgate minimum standards for such procedures.".

(c) Section 5321(a)(5)(A) of title 31, United States Code, is amended by adding "or any person willfully causing" after "willfully violates".

(d) Section 5322 of title 31, United States Code, is amended adding "or section 5318(g)(1)" after "under section 5315," each time it appears.

(e) Section 1829b(j)(1) of title 12, United States Code, is amended by adding "or any person who willfully causes such a violation" after "gross negligence violates".

(f) Section 1955 of title 12, United States Code, is amended by adding "or any person willfully causing a violation of the regulation" after "applies".

(g) Section 1957 of title 12, United States Code, is amended by adding "or willfully causes a violation" after "whoever willfully violates".

SEC. . AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.

(a) Section 1103(a) of the Right to Financial Privacy Act of 1978, (Title XI of Public Law 95–630, as amended, 12 U.S.C. 3403(c)), is amended

(1) by deleting the words, "in this chapter";

(2) by removing the period at the end thereof and adding the following:

"or for refusal to do business with any person before or after disclosure of a possible violation of law or regulation to a Government authority. For purposes of this section, in addition to financial institutions under this chapter, the term "financial institution" includes any business defined as a financial institution in section 5312(a)(2) of Title 31, United States Code, that is required by the Secretary of the Treasury under section 5318(g) of Title 31, United States Code, to file a suspicious transaction report with the Secretary.".

(b) Section 1112 of the Right to Financial Privacy Act of 1978 (Title XI of Public Law 95–630, as amended, 12 U.S.C. 3412) is amended—

(1) in paragraph (f)(1), by adding the words "or Secretary of the Treasury" after words "Attorney General";

(2) in paragraph (f)(1)(A) by adding the words "and in the case of the Secretary of the Treasury, a money laundering violation or violation of Chapter 53 of title 31, United States Code" after the word "law";

(3) in paragraph (f)(2) adding the words "Department of the Treasury" after the words "Department of Justice"; and

(4) by adding a new subsection (g) as follows:

"(g) Financial records originally obtained by an agency in accordance with this chapter may be transferred to the Secretary of the Treasury for analysis and use by the Financial Crimes Enforcement Network ("FinCEN") for criminal law enforcement purposes without customer notice."

Mr. D'AMATO. Mr. President, I ask unanimous consent that an analysis of my amendment, No. 522, be printed in the RECORD.

SECTION ANALYSIS OF MONEY LAUNDERING IMPROVEMENTS ACT OF 1991

SECTION 101

Title 28, Section 1355, gives the district courts subject matter jurisdiction over civil forfeiture cases. The venue statutes for forfeiture actions provide for venue in the district in which the subject property is located, 28 U.S.C. §1395, or in the district where a related criminal action is pending, 18 U.S.C. §981(h). But no statute defines when a court has jurisdiction over *the property* that is the subject of the suit. *See United States* v. *23,481*, 740 F. Supp. 950 (E.D.N.Y. 1990). This omission has resulted in unnecessary confusion and repetitive litigation of jurisdictional issues, *see, e.g., United States* v. *10,000 in U.S. Currency*, 860 F.2d 1511 (9th Cir. 1988); *United States* v. *Premises Known as Lots 50 & 51*, 681 F. Supp. 309 (E.D.N.C. 1988), and results in the government's having to file multiple forfeiture actions in different districts in the same case in order to satisfy jurisdictional requirements.

This provision, styled as an amendment to 28 U.S.C. §1355, resolves these issues for all forfeiture actions brought by the government.

Subsection (b)(1) sets forth as a general rule that jurisdiction for an *in rem* action lies in the district in which the acts giving rise to the forfeiture were committed. This would be a great improvement over current law which requires the government to file separate forfeiture actions in each district in which the subject property is found, even if all of the property represents the proceeds of criminal activity committed in the same place. (For example, if a Miami-based drug dealer launders his money by placing it in bank accounts in six states, the government would have to institute six separate forfeiture actions under §981 to recover the money.)

Under the early *in rem* cases, jurisdiction was proper only in the district where the property was "located." *See Pennington* v. *Fourth National Bank*, 243 U.S. 269, 272 (1917). This doctrine has been substantially eroded in recent years; and at least one court has speculated that the "minimum contacts" test of *International Shoe* may have completely replaced the territoriality question as a basis for the court's *in rem* jurisdiction. *See United States* v. *$10,000 in U.S. Currency*, *supra*. In any event, to the extent that the doctrine remains viable, it has generated litigation over various issues, such as the "location" of money seized in one district and deposited in an account in another district during the pendency of the forfeiture action. *See United States* v. *$23,481*, 740 F. Supp. 950.

Subsection (b)(1) resolves these issues by providing that the court in the district where the acts giving rise to the forfeiture occurred has jurisdiction over the forfeiture action. The subsection also makes clear this provision is not intended to affect jurisdiction based on the venue-for-forfeiture statutes that Congress has previously enacted or may enact in the future. For example, 28 U.S.C. §1395 provides for venue wherever the property is located, and 18 U.S.C. §981(h) and 21 U.S.C. §881(j) provide for venue in a civil forfeiture case in the district where a related criminal prosecution is pending. Although they do not say so explicitly, those statutes apply not only to venue but also to jurisdiction, since it would make no sense for Congress to provide for venue in a district without intending to give the court in that district jurisdiction as well. *See* 130 Cong. Rec., daily ed., January 26, 1984, at S267 (statement of Senator Laxalt explaining venue-for-forfeiture provision in 21 U.S.C. §881(j)).

Subsection (b)(1) thus makes clear that these venue-for-forfeiture statutes also give the court in the relevant district jurisdiction over the defendant property even if the property was not seized in that district and is not located there. *See Premises Known as Lots 50 & 51*, 681 F. Supp. at 311–13 (discussing constitutionality of this approach under 21 U.S.C. §881(j)).

Subsection (b)(2) addresses a problem that arises whenever property subject to forfeiture under the laws of the United States is located in a foreign country. As mentioned, under current law, it is probably no longer necessary to base *in rem* jurisdiction on the location of the property if there have been sufficient contacts with the district in which the suit is filed. *See United States* v. *$10,000 in U.S. Currency*, *supra*. No statute, however, says this, and the issue has to be repeatedly litigated whenever a foreign government is willing to give effect to a forfeiture order issued by a United States court and turn over seized property to the United States if only the United States is able to obtain such an order.

Subsection (b)(2) resolves this problem by providing for jurisdiction over such property in the United States District Court for the District of Columbia, in the district court for the district in which any of the acts giving rise to the forfeiture occurred, or in any other district where venue would be appropriate under a venue-for-forfeiture statute. If the acts giving rise to the forfeiture occurred in more than one district, as would commonly occur in a money laundering case, for example, jurisdiction would lie in any of those districts or in the District of Columbia.

Finally, subsection (c) addresses a recurring problem involving appeals in civil forfeiture actions. The question has two parts: 1) whether the removal of the *res* from the jurisdiction of the court following the entry of the district court order deprives the appellate court of jurisdiction over the appeal; and 2) whether the appellate court should take steps to ensure that the property is not diminished in value, taken out of the country, or otherwise made unavailable to the appellant in the event the appeal results in the reversal of the district court's judgment. *See United States* v. *Parcel of Land (Woburn City Athletic Club, Inc.)*, —F. 2d—, No. 90–1752 (1st Cir. Mar. 12, 1991), slip op. 6–9 (discussing but not deciding whether appellate court retains jurisdiction when district court does not stay forfeiture order and no longer has control over *res*).

The first sentence in subsection (c) resolves the first issue by providing without exception that an appellate court is not deprived of jurisdiction over an otherwise proper appeal simply because the *res* has been removed from the jurisdiction. This will allow successful claimants the use of their property pending appeal, and will allow the government to move the property for storage or investment purposes, without depriving the losing party of his appellate rights. The second sentence provides, however, that the appellate court is obliged to take whatever steps it deems necessary, including ordering the stay of the district court order or requiring the appellant to post an appeal bond, to ensure that while the appeal is pending, the party exercising control over the property does not take any action that would deprive the appellant of the full value of the property should the district court's judgment be reversed. The types of actions that the appellant court must seek to protect against are those listed in 21 U.S.C. §853(p).

SECTION 102

In 1986, Congress amended the criminal forfeiture statute, 21 U.S.C. §853, to authorize the forfeiture of substitute assets. *See* Section 1153(b), Anti-Drug Abuse Act of 1986, Pub. L. 99–570, 100 Stat. 3207–13. This provision, added as a new subsection (p), applies whenever property otherwise subject to forfeiture is unavailable because it cannot be located, has been sold to a third party, has been placed beyond the jurisdiction of the court, has been diminished in value, or has been commingled with other assets. In such a case, the court is authorized to order the forfeiture of any other property of equal value. In 1988, an identical provision was added to the criminal forfeiture statute that governs forfeitures in money laundering cases, 18 U.S.C. 982(b). *See* Sections 6463–64, Anti-Drug Abuse Act of 1988, Pub. L. 100–690, 102 Stat. 4374–75.

In a criminal case, the purpose of forfeiture is to punish the defendant. It is an *in personam* action directed at the defendant personally to punish him for his criminal acts. The scope of the punishment is circumscribed by the value of the property involved in or acquired through the commission of the criminal acts, but there is no reason why the punishment can be imposed only through the forfeiture of a specific piece of property. The forfeiture of any property of equal value imposes the same punishment fairly and effectively. If this were not the rule, a defendant could escape the punishment of forfeiture merely by, for example, placing certain property out of the reach of the court or commingling it with other property so that it could not easily be identified. Under the 1986 and 1988 amendments, the court can insure that the appropriate punishment is imposed irrespective of such attempts to avoid the consequences of criminal wrongdoing by ordering the forfeiture of some other property the defendant owns.

Forfeiture in a civil case is based on a different premise: It is intended not to punish a defendant; nor is it directed at any property owner personally. Rather it is an *in rem* action directed at a specific piece of property involved in criminal wrongdoing. In a civil forfeiture case, the property involved in a criminal offense is itself considered "guilty" and is forfeitable to the government regardless of the guilt or innocence of its owner. Thus it normally would be inconsistent with the theory of civil forfeiture to allow a court to order forfeiture of a substitute asset. In other words, if the theory underlying the forfeiture is that a specific piece of property is "guilty" and therefore forfeitable regardless of who its owner may be, it would make no sense for the government to order the forfeiture of another "innocent" asset when the guilty one is unavailable.

For this reason, the 1986 and 1988 substitute asset amendments applied only to the criminal forfeiture statutes, and not to the civil forfeiture statutes. That distinction should be maintained; but there are instances where strict adherence to the notion of forfeiture in civil cases only of identifiable "guilty" property makes no sense.

In the case of discrete tangible property, such as a car or boat or piece of real estate, the government should be limited in a civil case only to the forfeiture of the property actually involved in the criminal offense. If that property is unavailable, or is diminished in value, the government is simply "out of luck" since it is title to the property, not punishment of its owner, that the government has a right to pursue.

But in cases where the property is fungible, the government should be able to pursue title to the property without having to identify the specific item or items actually involved in an offense. In a case involving a quantity of cash, for example, that had been commingled with other cash, or kept in a place where identical quantities of cash were constantly being added and subtracted, the government could no more identify the specific dollar bills subject to forfeiture than it could identify a specific ton of grain in a grain elevator or a specific pile of bricks in the brickyard. In such a case, the government should be able to obtain title through civil forfeiture to the identical property found in the place where the "guilty" property had been kept.

The courts have recognized the soundness of this argument. In *United States* v. *Banco Cafetero Panama*, 797 F.2d 1154 (2d Cir. 1986), for example, the Second Circuit held that where funds deposited in a certain bank account were subject to civil forfeiture, the government could assume that the "guilty" property remained in the account, notwithstanding subsequent deposits and withdrawals, as long as the balance in the account always remained greater than or equal to the sum subject to forfeiture. *Id.* at 1160. In that case, however, the court based its holding on accepted accounting principles—such as the theory of "first in, last out"—rather than on any statutory authority that would be applicable to all cases involving fungible property. Experience has shown that this approach is inadequate to protect the property rights of the government in such cases.

Consider, for example, the case of a bank account involved in a money laundering scheme. Under 18 U.S.C. §981, all property involved in money laundering is forfeitable to the United States. *United States* v. *All Monies*, 754 F. Supp. 1467 (D. Haw. 1991). Thus if a money laundering offense involving a million dollars occurs on January 1, and the laundered money is deposited into a given bank account on that date, the government may seize the million dollars from the account as soon as it is deposited. Under *Banco Cafetero*, the government may still seize the million dollars a month later even if it can be shown that during the month of January there were numerous other deposits and withdrawals as long as the balance never fell below one million dollars. This is because the government is entitled to assume that the first deposit—the million dollars in laundered money—remains in the account until the last withdrawal is made.

The clever money launderer, however, being aware of the limitations of the accounting theories underlying cases such as

Banco Cafetero, will choose to place his laundered funds in accounts where the balance is highly volatile. For example, he may place the laundered funds in an account held by a money exchanger where, because of the nature of the business, the balance may vary from zero to a million dollars several times a week; yet in that case, the launderer may be assured that his money will still be available when he wants it because the balance in the account is sure to rise again to the million dollar level. Thus, to continue the above example, if a million dollars in laundered drug money is deposited into a volatile bank account on January 1, and the balance in facts dips to zero several times during the month but returns to one million dollars by the first day of February, the million dollars is still available to the criminal money launderer, but it is not forfeitable to the government.

The above scenario illustrates a weakness in the *Banco Cafetero* holding that can easily be exploited by money launderers, drug traffickers, and others whose criminal proceeds are subject to civil forfeiture. There is no reason why fungible property, such as the balance in a bank account, should escape forfeiture simply because the property is capable of being moved in and out of the government's view with great rapidity. If despite the apparent disbursement of the property it remains, by its fungible nature, capable of being replaced or reconstituted in identical form at any time, it should remain subject to forfeiture. Any other rule merely rewards those who contrive sophisticated shell games to hide the whereabouts of criminally derived property.

The proposed amendment adds a new section 984 to the forfeiture chapter in title 18 that is applicable to any civil forfeiture action brought under title 18 or title 21, including violations of the Bank Secrecy Act punishable by 31 U.S.C. §5322 for which forfeiture actions are undertaken pursuant to 18 U.S.C. §981. Sec. 984 provides that in cases involving fungible property, property is subject to forfeiture if it is identical to otherwise forfeitable property, is located or maintained in the same way as the original forfeitable property, and not more than one year has passed between the time the original property subject to forfeiture was so located or maintained and the time the forfeiture action was initiated by seizing the property or filing the complaint, regardless of whether or not the fungible property was continuously present or available between the time it became forfeitable and the time it was seized. (The time limitation is considered necessary to ensure that the property forfeited has a reasonable nexus to the offense giving rise to the original action for forfeiture.)

Thus under the amendment, a million dollars in laundered drug money that is deposited into a bank account on January 1, would be forfeitable from that account any time within the ensuing year that the balance in the account was at least one million dollars, even if, at various times in the interim, the balance fluctuated above and below the million dollar level. Once a year had passed, however, the government could no longer reasonably claim that the million dollars in the account was the same money that was originally forfeitable, and the forfeiture action could not be maintained.

The provision in subsection (d) carves out a very narrow exception that precludes uses of section 984 to forfeit assets held in the clearing account of a foreign bank through which laundered funds moved in the past, but where such funds are no longer to be found. The exception would not apply where the foreign bank itself was engaged in the offense giving rise to the forfeiture action.

The retroactive application of these amendments, as set forth in subsection (b), is in keeping with the normal rule for construing amendments to civil statutes. *See United States* v. *$5,644,540 in U.S. Currency*, 799 F.2d 1357, 1364 n. 8 (9th Cir. 1986) (*ex post facto* clause does not apply to civil forfeiture case).

SECTION 103

This gives the Attorney General the means, by way of an administrative subpoena, to acquire evidence in contemplation of a civil forfeiture action brought under title 18 or title 21. Its provisions are taken verbatim from Section 951 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") (12 U.S.C. 1833a), Pub. L. 101–73, and it is intended to give the Attorney General the means to gather evidence in contemplation of a civil forfeiture action in a money laundering case in the same way that he may presently gather evidence in contemplation of civil enforcement action in a FIRREA case.

As Congress recognized in enacting Section 951 of FIRREA two years ago, such subpoena authority is necessary because in the context of a civil law enforcement action there is no procedure analogous to the issuance of a grand jury subpoena that allows the government to gather evidence before the filing of a complaint.

There is a simple precedent for this proposal. In RICO, for example, 18 U.S.C. §1968 provides for the issuance of a civil investigative demand to allow the government to gather evidence in contemplation of bringing a civil RICO suit. That provision was drawn from the Anti-Trust Civil Process Act, 15 U.S.C. §§1311–1314,[1] and was in turn the basis for §951 in FIRREA. Because the language of the present section is taken directly from FIRREA, the same limitations would apply to subpoenas issued in civil forfeiture investigations in money laundering cases as apply to civil enforcement of the bank fraud statutes.

SECTION 104

This provision simplifies the procedure for gathering bank records once a complaint is filed by any civil forfeiture case.

In a typical case, a wrongdoer such as a money launderer or drug trafficker, will place his illegally obtained property in bank accounts in numerous locations, often in a number of different states or districts. Presently, once a civil forfeiture complaint is filed, records pertaining to such accounts, or any other accounts that might be relevant to the forfeiture action, can be obtained only through the discovery process under the Federal Rules of Civil Procedure which requires the government to obtain a separate subpoena for the records in each and every one of the judicial districts in which the banks holding the records are located.

Thus if a forfeiture action is filed in Texas, but records relevant to the case are held by banks in Maimi, New York, and Los Angeles, the United States Attorney in Texas has to seek the issuance of subpoenas *duces tecum* by courts in Florida, New York and California in order to obtain the records needed in the Texas action. This is because Rule 45, FED. R. Civ. Pro., contemplates the issuance of a subpoena *duces tecum* only in the context of the taking of a deposition, and it requires that the subpoena be issued in the district where the deposition is to be taken.

In most civil forfeiture cases, there is no need to take the deposition of the custodian of bank records, and it is unnecessarily burdensome to have the subpoena issued by the court in the district where the bank is located when the forfeiture action is pending in some other district.

The proposed amendment would provide for the issuance of a subpoena duces tecum for bank records by the Clerk of the Court in the district where the forfeiture action was pending. Any party to the action could request the issuance of such a subpoena and would be required to give notice to all other parties. The final subsection makes clear that this section is intended to complement the discovery rules set forth in the Federal Rules of Civil Procedure and does not preclude any party from pursuing discovery under those Rules.

SECTION 201

Section 2706 of the Crime Control Act of 1990 added several bank fraud offenses to the definition of specified unlawful activity in §1956(c)(7)(D). The additions included 18 U.S.C. §§1005–07 and 1014. Unfortuantely, this amendment contained another provisions that could cause major problems in money laundering cases involving the proceeds of mail and wire fraud offenses.

Currently, under §1956(c)(7)(A), all RICO predicates are included in the definition of "specified unlawful activity". Because mail and wire fraud are RICO predicates, the laundering of the proceeds of *any* mail or wire fraud offense is currently prosecutable under §§1956 and 1957.

The 1990 amendment, however, added mail and wire fraud offenses "affecting a financial institution" to the definition of specified unlawful activity. The context of the amendment makes clear that it was the intent of Congress to *expand* the money laundering statute to cover banking crimes. *See Congressional Record*, daily ed., July 31, 1990, at H6005 (explaining section 106 of H.R. 5401 and indicating that new predicate offenses were being *added*, not limited). Unfortunately, the wording of the amendment will allow some defendants to argue that Congress could not have intended to pass a meaningless statute and that it therefore, must have intended to *restrict* the money laundering statute only to those fraud offenses affecting financial institutions. If that interpretation were to be accepted by a court, the result would be to exempt the laundering of the proceeds of many white collar crimes and public corruption offenses from prosecution under the money laundering statute.

This amendment makes clear that Congress' clear intent in enacting the savings and loan provisions in the 1990 Crime Control Act was to *enhance* prosecutorial authority, not restrict it, and that therefore the amendment to §1956(c)(7)(D) was a drafting error that was not intended to affect the inclusion of all mail and wire fraud offenses as money laundering predicates under §1956(c)(7)(A). The amendment also strikes the duplicate reference to 18 U.S.C. §1344 as that section is also already a money laundering predicate under §1956(c)(7)(A).

Finally, this section amends the reference to the drug paraphernalia statute to conform to the redesignation of that statute as part of the Controlled Substances Act by section 2401 of the Crime Control Act of 1990.

[1] *See* S. Rep. No. 91–617, 91st Cong., 1st Sess. 161 (1969). For a list of other statutes that authorize the gathering of evidence by means of an administrative subpoena, *see* H. Rep. No. 94–1343, 94th Cong., 2nd Sess. 22 n.2 reprinted in 1970 U.S. CODE & ADMIN. NEWS 2617.

SECTION 202

This section amends a provision in the FIRREA Act of 1989 to conform to forfeiture amendments relating to bank fraud and money laundering that were included in the Crime Control Act of 1990.

Under current law, enacted in FIRREA in 1989, a person in lawful possession of grand jury information concerning a banking law violation may disclose that information to an attorney for the government for use in connection with a civil forfeiture action under 18 U.S.C. §981(a)(1)(C). The purpose of this provision is to make it possible for the government to use grand jury information to forfeit property involved in a bank fraud violation; it does not permit disclosure to persons outside of the government, nor does it permit government attorneys to use the information for any other purpose. Rather, it merely recognizes civil forfeiture actions under §981 as part of any law enforcement action arising out of a criminal investigation.

The limitation to forfeiture under "§981(a)(1)(C)," however, is obsolete. At the time FIRREA was enacted, all forfeitures relating to bank fraud violations were brought under §981(a)(1)(C). In the Crime Control Act of 1990, however, Congress added paragraphs (D) and (E) to section 981(a)(1), relating to other bank fraud violations involving the Resolution Trust Corporation. The amendment strikes the reference to paragraph (C) so that disclosure under 18 U.S.C. §3322(a) will be permitted in regard to any forfeiture under any part of §981(a)(1) including money laundering forfeitures.

SECTION 203

This amendment is identical to the provision that passed both the House and Senate in the 101st Congress. *See* §810 of S. 3037, §32 of H.R. 5889.

In the Anti-Drug Abuse Act of 1986, Congress created 31 U.S.C. 5324, which made it a crime to structure a transaction for the purpose of evading a currency transaction reporting requirement. The amendment creates a parallel provision regarding the monetary instrument reports (commonly called "CMIRs") that must be filed whenever instruments having a value of more than $10,000 are imported or exported.

Under the new provision, codified as subsection (b) of §5324, it would be illegal to structure the importation or exportation of monetary instruments with the intent to evade the CMIR reporting requirement. As is the case presently for structuring cases involving currency transaction reports, the government would have to prove that the defendant knew of the existence of the CMIR reporting requirement, but it would not have to prove that the defendant knew that structuring itself had been made illegal. *United States* v. *Hoyland*, 903 F.2d 1288 (9th Cir. 1990).

The amendment made in subsection (b) is technical in nature and is intended to avoid a double penalty when forfeiture and other civil sanctions are applied to the same case.

The amendment in subsection (c) makes clear that civil forfeitures for CTR structuring offenses will continue to be covered by §981 of title 18, while civil forfeitures for CMIR offenses, including the new structuring offenses, will continue to be covered by §5317 of title 31.

SECTION 204

This amendment passed the House and Senate in 1990 as §13 of H.R. 5889 and §204 of S. 3037. It corrects an oversight in §6185(c) the Anti-Drug Abuse Act of 1988, which authorized the Secretary of the Treasury to issue orders directing financial institutions in certain geographic areas to collect additional information regarding cash transactions, by providing a penalty for the disclosure of such orders.

SECTION 205

Currently, section 1956 and 1957, the two principal money laundering statutes, contain different and possibly inconsistent definitions of the term "financial institution." Under §1957, a financial institution is any entity listed in 31 U.S.C. 5312. Under §1956, however, a financial institution is any entity listed in §5312 and the regulations promulgated by the Secretary of the Treasury pursuant to that statute. *See* 31 CFR §103.11(i) (1990). Moreover, it is unclear whether the reference to the regulations in §1956 is meant to limit the definition of "financial institution" to those entitles that are listed in *both* the statute (i.e. 31 U.S.C. §5312) *and* the regulations, or whether Congress intended to include any entity referred to in *either* the statute *or* the regulations.

The amendment eliminates this confusion first by using the same definition of "financial institution" for both §1956 and §1957, and second by making clear that the definition includes any entity referred to in either 31 U.S.C. §5312 or the regulations promulgated thereunder.

SECTION 206

Section 1402 of the Crime Control Act of 1990 made several purely technical corrections to the definition of "financial tranaction" in 18 U.S.C. §1956(c)(4). The present amendment makes several additional minor changes to clarify the scope of the statute.

The substantive part of the amendment expands the definition of "financial transaction" to cover the transfer of title to real property, automobiles, boats, airplanes and other conveyances. This closes a loophole in section 1956 which allows someone to escape prosecution under the money laundering statute if he or she conceals or disguises the proceeds of unlawful activity by transferring title to property without receiving any funds or monetary instruments in return.

The remaining provisions are purely technical in nature.

SECTION 207

Under current law, 18 U.S.C. 1510(b), it is a crime for any employee of a financial institution to disclose the contents of a grand jury subpoena for bank records where the subpoena is issued in the course of an investigation of certain crimes. The crimes covered by this obstruction of justice statute are listed in 18 U.S.C. 1510(b)(3)(B). The amendment expands the listed of covered offenses to include the federal money laundering statutes.

SECTION 208

This section is virtually identical to a provision that passed the Senate twice in the 101st Congress. *See* §701(a)(5) of S. 1711; §1901(a)(5) of S. 1970. It allows the Asset Forfeiture Fund to be used to pay awards for information relating to violations of the criminal money laundering laws. This amendment differs from the version that passed the Senate previously only in that includes violations of 31 U.S.C. §5316 (relating to CMIR reports) and 26 U.S.C. §6050I (relating to Form 8300 reports) within the list of money laundering offenses.

SECTION 209

This amendment is virtually identical to an amendment introduced by Senator Biden that passed the Senate as §2437 of S. 1970 in 1990. The amendment, which is modeled on the penalty provision for drug conspiracies in 21 U.S.C. §846, would make the penalty for money laundering conspiracy equivalent to the penalty for the substantive money laundering offense. The only difference between this provision and the Biden amendment is that this amendment would apply only to conspiracies and not to attempt offenses.

SECTION 210

This section includes two technical amendments passed by the Senate in 1990 as section 3722 of S. 1970. The first amendment conforms the language in sections 1956(a)(2) and (b) to amendments made by section 6471 of the Anti-Drug Abuse Act of 1988, Pub. L. 100-690. That amendment clarified the scope of section (a)(2) to make clear that it covered not only physical "transportation" of property, but also the "transmission or transfer" of property, such as the transmission of funds by wire. The present amendment inserts "transmission or transfer" at the appropriate places in subsections (a)(2) and (b) so that they conform grammatically to the statute as amended in 1988.

The second amendment strikes redundant language in the "sting" provision enacted by section 6465 of the Anti-Drug Abuse Act of 1988.

SECTION 211

In the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), Congress amended 12 U.S.C. 3420 to prohibit a financial institution from notifying a customer of the existence of a grand jury subpoena for records naming such customer (or any information furnished in response to the subpoena) in any case involving a crime against any financial institution or supervisory agency. Other provisions of the Right to Financial Privacy Act exempt grand jury subpoenas from the Act's mandatory notice to customers provisions (12 U.S.C. 3413(i)), but except for the limited FIRREA amendment described above, the statute fails to prohibit a financial institution from voluntarily notifying a customer of the existence of a grand jury subpoena pertaining to his or her account. Such notification, of course, may alert a potential suspect of an investigation and permit the suspect to flee or conceal evidence. For that reason, the Act permits a prosecutor to obtain an order precluding such notification, upon certain showings, but the order is effective only for up to ninety days (see 12 U.S.C. 3409).

In drug and money laundering cases, the grand jury investigation is likely to be protracted and may involve numerous subpoenas for bank records. The administrative burdens in such cases imposed by the Act on overworked federal prosecutors to prepare the court papers necessary first to obtain, and then to secure extensions of, such preclusion-of-notice orders are unduly severe and unjustified. Accordingly, the amendment would expand the FIRREA addition of an automatic preclusion of notice to cover not only grand jury subpoenas for records relating to crimes against the financial institution, but also grand jury subpoenas for records relating to criminal investigations of the controlled substances and money laundering laws.

SECTION 212

This minor amendment merely incorporates the definition of property from 21 U.S.C. §853(b) (the drug forfeiture statute) into statute that governs money laundering forfeitures. Section 982 already incorporates virtually all of the other procedural and defi-

nitional sections of §853. The definition of property was left out of the statute as originally enacted in 1986 because at that time §982 only permitted forfeiture of commissions and fees paid to money launderers. In 1988, however, §982 forfeitures were expanded to include the property being laundered, proceeds traceable to that property, and property used to facilitate the laundering offense. *See United States* v. *All Monies*, 754 F. Supp. 1467 (D. Haw. 1991). In light of the 1988 amendment, the definition of property in §853(b) should be incorporated into §982. This conforms to the FIRREA forfeiture amendments of 1989 which incorporated the definition of property from §853(b) into §982(b)(1)(B) for FIRREA forfeitures.

The definition of property in §853(b) is as follows: "real property, including things growing on, affixed to, and found in land; and tangible and intangible personal property, including rights, privileges, interests, claims, and securities."

SECTION 213

At present, 18 U.S.C. §§1956(c)(7)(B) and 981(a)(1)(B) are co-extensive. The former makes foreign drug crimes in which a financial transaction occurs within the United States predicates for money laundering, while the later provides for civil forfeiture of the proceeds of such crimes if found in the United States. (Criminal forfeiture authority is automatically established under 18 U.S.C. §982(a)(1) for any offense under §1956.)

The proposal would expand the money laundering and civil forfeiture provisions described above so that they would also include the proceeds of foreign kidnappings, robberies, and extortions. The purpose is to make it more difficult for terrorists and other violent offenders to use the United States as a haven for the profits from their crimes.

SECTION 214

18. U.S.C. 981(e) governs the disposal of property forfeited by the Attorney General, the Secretary of the Treasury, or the Postal Service. The subsection provides, among other things, that the property may be retained, may be transferred to another federal agency, or may be transferred to a State or local law enforcement agency which participated directly in any of the acts which led to the forfeiture. The three federal departments or agencies are directed equitably to share the proceeds of forfeitures with such participating State and local law enforcement authorities.

Section 6469(b) of the Anti-Drug Abuse Act of 1988 added a sentence to 18 U.S.C. 981(e) which limited the authority of the Treasury Department and the Postal Service under that subsection to "property that has been administratively forfeited." No rationale for this limitation is stated and none is apparent. Prior to the 1988 Act, Treasury enjoyed the authority to dispose of property it seized irrespective of whether the property was later judicially forfeited in a proceeding conducted by the Attorney General. Possibly, the last sentence of subsection 981(e) was inserted because in some manner it was believed necessary to protect the litigating authority of the Attorney General. However, such litigating authority is not implicated by subsection 981(e), nor is there any other reason why Treasury and the Postal Service should not be able to dispose of property seized within their respective jurisdictions, as to which a judicial forfeiture proceeding is later brought. Accordingly, the amendment (which passed the Senate last year as §1911 of S. 1970) would repeal the last sentence of 18 U.S.C. 981(e) to give those agencies that authority.

SECTION 215

This section merely adds two additional criminal offenses to the list of "specified unlawful activity" in section 1956.

SECTION 301. AMENDMENTS TO THE BANK SECRECY ACT

Section (a). This technical amendment makes a change to the anti-structuring provision of the Bank Secrecy Act, 31 U.S.C. 5324, to specify that structuring transactions to avoid the $3000 identification requirement of 31 U.S.C. 5325 is prohibited.

By way of background, the anti-structuring provision of the Bank Secrecy Act, 31 U.S.C. 5324, prohibits structuring of transactions to avoid the currency reporting requirements of section 5313, *i.e.*, the $10,000 Currency Transaction Report requirement under 31 C.F.R. 103.22. In section 6185(b) of the Anti-Drug Abuse Act of 1988, Congress added section 5325 to further guard against the practice of "smurfing" drug proceeds by cash purchases of monetary instruments at amounts below the $10,000 reporting threshold. Section 5325 prohibits the cash purchase of certain monetary instruments—bank checks, cashier's checks, traveler's checks, money orders—in amounts greater than $3000 to non-account holders unless the financial institution verifies the identification of the purchaser. Treasury has issued regulations under section 5325, 31 C.F.R. 103.29, which require that financial institutions maintain a log of cash purchases of these instruments over $3000 which included a notation of the identification exacted for non-account holders.

Nevertheless, section 5324 only refers to structuring to avoid the Currency Transaction Report requirement. Therefore, the proposed amendment is needed because under the current law it could be argued that customer structuring of transactions or smurfing to avoid the $3000 identification requirement would not be a violation of the Bank Secrecy Act.

Section (b). This section contains provisions necessary to bring the financial enforcement program in the United States in conformity with the recommendations of the Financial Action Task Force ("FATF") on money laundering.

The FATF was convened by the 1989 G–7 Summit to study the state of international cooperation on money laundering and measures to improve cooperation in international money laundering cases. The group was composed of fifteen financial center countries and the European Community. After several meetings of experts from law enforcement, Justice and Finance Ministries, and bank supervisory authorities, in April 1990, the group issued a comprehensive report with 40 action recommendations for comprehensive domestic anti-money laundering programs and improved international cooperation in money laundering investigations, prosecutions, and forfeiture actions. The recommendations of the group have become the world model for effective anti-money laundering measures.

President Bush and the other heads of state and government endorsed the report of the Financial Action Task Force at the Houston Economic Summit in summer 1990, and the financial ministries of non-G–7 participants also endorsed the report. The Houston Summit reconvened the Task Force for another year. The mandate of the reconvened Task Force is to study possible complements to the original recommendations, to assess implementation of the recommendations, and to study how to expand the number of countries that subscribe to the recommendations. The reconvened Task Force is currently meeting. The original members have been joined by six other European countries and Hong Kong and the Gulf Cooperative Council.

By their endorsement, the Task Force members are committed to take necessary legislative and regulatory measures to implement the recommendations. Most of the countries are in the process of developing the necessary legislation. As can be expected, most of the recommendations reflect measures already in place in the United States because the United States was among the first countries to recognize the need for a comprehensive regulatory and legislative response to money laundering. Nevertheless, to fully measure up to the recommendations, our program requires some refinements which the amendments in this section address.

First, the Task Force recommendations (recommendation 9) provides that the same anti-money laundering measures recommended for banks be put in place for non-bank financial institutions, such as the requirement to report suspicious transactions possibly indicative of money laundering (recommendation 16) and to create anti-money laundering programs (recommendation 20). Our collective experience in the United States and abroad reflects that as banks become more effective in guarding against money laundering, money launderers turn to non-bank financial institutions, such as casas de cambio and telegraph companies. Many of these institutions are subject to the recordkeeping and reporting requirements of the Bank Secrecy Act, but unlike banks are not required to report suspicious transactions nor to have compliance programs to guard against money laundering. *See e.g.*, 12 C.F.R. 12.11 (relating to reports to suspected crimes by national banks); 12 C.F.R. 21.21 (relating to procedures for monitoring Bank Secrecy Act compliance by national banks).

Proposed section 31 U.S.C. 5318(g) authorizes the Secretary to require by regulation the reporting of suspicious transactions by any financial institution subject to the Bank Secrecy Act. Failure to report a suspicious transaction would subject the institution to the civil penalties of 31 U.S.C. 5321. It is anticipated that the Secretary would issue guidelines to assist financial institutions in identifying suspicious transactions.

Also in furtherance of the FATF recommendations, a financial institution, bank or non-bank, would be prohibited from warning its customer if it made a suspicious transaction report (recommendation 17). Under the Right to Financial Privacy Act ("RFPA"), 12 U.S.C. 3403(c), a financial institution may report a suspicious transaction free from civil liability for not notifying its customer, but is not specifically prohibited from warning the customer. The FATF concluded that in order for suspicious transactions reporting to be effective there must be a prohibition from notifying the persons involved in the suspicious transaction. Also, as discussed below, in a related amendment, it is proposed to extend the customer liability protection of the RFPA to all financial institutions subject to the Bank Secrecy Act, not just to the banking institutions generally subject to the RFPA.

Proposed section 31 U.S.C. 5318(h), which tracks the language of FATF recommendation 20, would authorize the Secretary to require financial institutions subject to the Bank Secrecy Act to have anti-money laundering programs which include, at a minimum, development of internal policies, pro-

cedures, and controls, designation of a compliance officer, an ongoing employee training program, and an independent audit function to test the program. The Secretary would be able to promulgate minimum standards for such procedures.

This recommendation was based on the regulations the U.S. bank regulators have in place pursuant to 12 U.S.C. 1818 to ensure Bank Secrecy Act compliance. *See e.g.*, 12 C.F.R. 21.21. The Secretary already has authority under 31 U.S.C. 5318 to promulgate procedures to issue procedures to ensure compliance with requirements of the Bank Secrecy Act. This amendment would eliminate the requirement that the procedures be linked to a Bank Secrecy Act requirement, *i.e.*, currency transaction reporting. The procedures would be geared at money laundering generally whether or not a customer dealt in cash. For instance, this authority could be used to require that anti-money laundering programs include "know your customer" procedures.

The Department of the Treasury envisions that the authority of proposed sections 5318(g) and (h) could be used with respect to any institution subject to the Bank Secrecy Act under 31 U.S.C. 5312 whether or not that institution is required to report currency transactions under the Bank Secrecy Act.

The amendments in sections (d) through (h) specify that persons who cause financial institutions to maintain false or incomplete records in contravention of the Bank Secrecy Act recordkeeper requirement would themselves be subject to civil sanctions. Currently, the Bank Secrecy Act recordkeeping civil penalties apply only to the financial institution required to maintain the record. (Criminal penalties already apply to persons causing such violations pursuant to 31 U.S.C. §§ 5322 and 5324(1) and (2), and 18 U.S.C. § 2.) The penalties do not apply to a customer who caused a financial institution to maintain a false or incomplete record. As Treasury refines its recordkeeping requirements, *e.g.*, the proposal for enhanced funds transfer records, this may become a loophole in the statutory framework. The amendments in sections 1 (d) through (h) would cure this problem for records required under the general recordkeeping authority for insured financial institutions (12 U.S.C. 1829b), nonbank financial institutions (12 U.S.C. 1951–1959), and requirements promulgated pursuant to 31 U.S.C. 5314 (foreign financial agency records).

SECTION 302. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT

Section (a). Since the inception of the Right to Financial Privacy Act, pursuant to an exception in section 1103(c), 12 U.S.C. 3404(c), financial institutions have been able to report, in good faith, possible violations of law or regulation to federal authorities without notice to the suspected customer and free from civil liability under the RFPA. At the Administration's request in the Anti-Drug Abuse Act of 1986 and 1988, Congress further clarified this provision to specify what information a financial institution could give regarding the customer and the suspicious activity, and that the protection preempted any state law requiring notice to the customer. These changes were added to ensure that financial institutions would not be inhibited from reporting suspected violations, especially money laundering and Bank Secrecy Act reporting violations.

Nevertheless, banks have advised that there are other concerns beyond liability under privacy laws that in some instances complicate their treatment of suspicious transactions. For instance, they fear possible defamation actions or that if they sever relations with a customer, they may risk liability under the Fair Credit Reporting Act, 15 U.S.C. 1691, *et seq.*, or for breach of contract. *See Ricci* v. *Key Bancshares of Maine*, 768 F.2d 456 (1st Cir. 1985). However, if they continue relations with the customers, they fear that they may be implicated in any illegal activity.

In many cases, after a suspicion has been reported, Federal authorities will encourage financial institutions to continue dealing with a suspicious customer so his activities may be monitored. Unfortunately, in other cases, law enforcement authorities do not always follow-up with financial institutions on the disposition of suspicious activity reports. In any event, financial institutions should be free to sever relations with the customer based on their suspicions or on information about a customer received from law enforcement.

Section (a) addresses these concerns by extending the protection of section 1103(c) to a financial institution that severs relations with a customer or refuses to do business because of activities underlying a suspicious transaction report and by specifying that the financial institution that acts in good faith in reporting a suspicious transaction is protected from civil liability to the customer under any theory of state or Federal law.

This amendment also broadens the protection of section 1103(c) to the wide range of bank and non-bank institutions subject to the Bank Secrecy Act, 31 U.S.C. 5312, to the extent that these institutions are required to file suspicious transaction reports. Currently, the protection from civil liability may apply to financial institutions as defined in section 1101 of the RFPA (12 U.S.C. 3401), *e.g.*, banks credit unions, savings associations. Non-bank institutions which are required to file suspicious transaction reports may similarly be inhibited from reporting suspicious transactions by fear of civil liability for defamation or breach of contract or under financial or consumer privacy laws.

Under this proposal, the protection from civil liability would apply to any institution enumerated in 31 U.S.C. 5312 if the Secretary has exercised his regulatory authority under proposed 31 U.S.C. 5318(g) (Section _____ of this bill) by requiring that type of institution to file a report on suspicious transactions. Thus, if an institution such as check casher, securities broker, or foreign currency exchange, which is not categorized as a "financial institution" under the RFPA, but is categorized as such under 31 U.S.C. 5312 and the implementing regulations, and is required by regulation to file a suspicious transaction report, will be free from customer liability based on the suspicious transaction report.

Section (b). Section 1112 of the RFPA, 12 U.S.C. 3412, provides that agencies that obtain financial records in accordance with the RFPA (either after customer notice or pursuant to an authorized notice exception) notify a customer if it transfers the records to another agency.

The amendment in section (b) is necessary to facilitate the work of Treasury's new Financial Crimes Enforcement Network (FinCEN). FinCEN plans not only to analyze financial records, including records subject to the RFPA, *e.g.*, records received by administrative subpoena, to facilitate investigations and prosecution by non-Treasury agencies, but to integrate such records with other available records for further analysis to indentify new targets for criminal investigation. Treasury is concerned that this further use, independent of the needs of the agency that originally received the records in accordance with the RFPA, could be considered as a transfer of the records to Treasury necessitating customer notice under section 1112 of the RFPA.

The amendment adds a new subsection 1112(g) to provide that an agency can transfer records obtained in accordance with the RFPA to FinCEN for criminal law enforcement purposes without customer notice. FinCEN also would be able to disseminate the results of its analysis, whether based in whole or in part on records obtained subject to the RFPA, to the appropriate agency for criminal investigation without customer notice.

MOYNIHAN (AND SANFORD) AMENDMENT NO. 523

(Ordered to lie on the table.)

Mr. MOYNIHAN (for himself and Mr. SANFORD) proposed an amendment to the bill S. 1241, supra, as follows:

At the end of the bill add the following:

SEC. 2704. COMPLIANCE WITH STATE AND LOCAL FIREARMS LICENSING LAWS REQUIRED BEFORE ISSUANCE OF FEDERAL LICENSE TO DEAL IN FIREARMS.

(a) IN GENERAL.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) in the case of an application for a license to engage in the business of dealing in firearms—

"(i) the applicant has complied with all requirements imposed on persons desiring to engage in such a business by the State and political subdivision thereof in which the applicant conducts or intends to conduct such business; and

"(ii) the applicant has verified such compliance in a form and manner prescribed by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications for licenses that are submitted 90 or more days after the date of the enactment of this Act.

MOYNIHAN AMENDMENTS NOS. 524 AND 525

(Ordered to lie on the table.)

Mr. MOYNIHAN submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 524

At the end of the bill add the following:

SEC. 2704. PROHIBITION OF MANUFACTURE, IMPORTATION, OR TRANSFER OF CERTAIN TYPES OF AMMUNITION.

(a) UNLAWFUL ACTS.—Section 922(a) of title 18, United States Code, is amended by—

(1) striking "and" at the end of paragraph (7);

(2) striking the period at the end of paragraph (8) and inserting a semicolon; and

(3) adding at the end thereof the following new paragraphs:

"(9) for any person to manufacture, import, or transfer .25 or .32 caliber or 9 milli-

meter ammunition, except that this paragraph shall not apply to—

"(A) the manufacture or importation of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

"(B) any manufacture or importation for testing or for experimenting authorized by the Secretary; and

"(10) for any manufacturer or importer to sell or deliver .25 or .32 caliber or 9 millimeter ammunition, except that this paragraph shall not apply to—

"(A) the sale or delivery by a manufacturer or importer of such ammunition for the use of the United States or any department or agency thereof of any State or any department, agency, or political subdivision thereof; and

"(B) the sale or delivery by a manufacturer or importer of such ammunition for testing or for experimenting authorized by the Secretary.".

(b) LICENSING.—Section 923 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) amending paragraph (a)(A) to read as follows:

"(A) of destructive devices, ammunition for destructive devices, armor piercing ammunition, or .25 or .32 caliber or 9 millimeter ammunition, a fee of $1,000 per year;";

(B) amending paragraph (1)(C) to read as follows:

"(C) ammunition for firearms other than destructive devices, or armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $10 per year."; and

(C) amending paragraph (2) to read as follows:

"(2) If the applicant is an importer—

"(A) of destructive devices, ammunition for destructive devices, or armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $50 per year."; and

(2) by adding at the end thereof the following new subsection:

"(1) Licensed importers and licensed manufacturers shall mark all .25 and .32 caliber and 9 millimeter ammunition and packages containing such ammunition for distribution, in the manner prescribed by the Secretary by regulation.".

(c) USE OF RESTRICTED AMMUNITION.—Section 929 of title 18, United States Code, is amended—

(1) in subsection (a)(1) by inserting ", or .25 or .32 caliber or 9 millimeter ammunition" after "possession of armor piercing ammunition"; and

(2) in subsection (b) by inserting ", or .25 or .32 caliber or 9 millimeter ammunition," after "armor piercing ammunition".

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the first calendar month that begins more than 90 days after the date of enactment of this Act.

AMENDMENT NO. 525

At the end of the bill add the following:

SEC. 2704. RECORDS OF DISPOSITION OF AMMUNITION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 923(g) of title 18, United States Code, is amended—

(1) in paragraph (1)(A) by inserting after the second sentence "Each licensed importer and manufacturer of ammunition shall maintain such records of importation, production, shipment, sale, or other disposition of ammunition at his place of business for such period and in such form as the Secretary may by regulations prescribe. Such records shall include the amount, caliber, and type of ammunition."; and

(2) by adding at the end thereof the following new paragraph:

"(6) Each licensed importer or manufacturer of ammunition shall annually prepare a summary report of imports, production, shipments, sales, and other dispositions during the preceding year. The report shall be prepared on a form specified by the Secretary, shall include the amounts, calibers, and types of ammunitions that were disposed of, and shall be forwarded to the office specified thereon not later than the close of business on the date specified by the Secretary.".

(c) STUDY OF CRIMINAL USE AND REGULATION OF AMMUNITION.—The Secretary of the Treasury shall request the National Academy of Sciences to—

(1) prepare, in consultation with the Secretary, a study of the criminal use and regulation of ammunition; and

(2) to submit to Congress, not later than July 1, 1993, a report with recommendations on the potential for preventing crime by regulating or restricting the availability of ammunition.

LAUTENBERG AMENDMENT NO. 526

(Ordered to lie on the table.)

Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

On page 170, line 9, add immediately after the word "housing" the following: "or federally assisted low income housing".

On page 171, line 4, add immediately after the word "housing" the following: "or federally assisted low income housing".

DOLE AMENDMENT NO. 527

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place add:

SEARCH OF OUTBOUND MAIL.

Section 5317(b) of title 31, United States Code, is amended to read as follows:

"(b)(1) For purposes of ensuring compliance with the requirements of section 5316 of this title or of sections 1956 and 1957 of title 18, United States Code, a customs officer may stop and search, at the border and without a search warrant, any vehicle, vessel, aircraft, or other conveyance, any envelope or other container (including mail transmitted by the United States Postal Service that is not sealed against inspection or that has a customs declaration affixed by the sender) and any person entering or departing the United States.

"(2) Notwithstanding section 3623(d) or any other provision of title 39, United States Code, with respect to a letter sealed against inspection that is being transmitted by the United States Postal Service, a search authorized by paragraph (1) may be conducted when a customs officer has reasonable cause to suspect that there are monetary instruments being transported in the letter.

"(3) Nothing in this section shall be construed to limit the authority of the Secretary of the Treasury or the United States Customs Service under any other law.".

McCONNELL AMENDMENT NO. 528

(Ordered to lie on the table.)

Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the end of the bill, add the following:

TITLE —PUBLIC CORRUPTION

SEC. 01. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1991".

SEC. 02. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 226. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, or political subdivision of a State, shall be fined under this title, or imprisoned for not more than 10 years, or both.

"(b) Whoever, in a circumstances described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, runoff, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement of submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information, shall be fined under this title or imprisoned for not more than ten years, or both.

"(c) Whoever, being a public official or an official or employee of a State, or political subdivision of a State, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the right to have the affairs of the State or political subdivision conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than ten years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television com-

munication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes to use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest service of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than 10 years, or both.

"(f) Whoever being an official, or public official, or person who has been selected to be a public official, directly or indirectly, discharges, demotes, suspends, threatens, harasses, or, in any manner, discriminates against any employee or official of the United States or any State or political subdivision of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to 5 years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individuals whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, 3 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(3) A civil action or proceeding authorized by this subsection shall be stayed by a court upon the certification of an attorney for the Government, stating that such action or proceeding may adversely affect the interests of the Government in an ongoing criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'public official' and 'person who has been selected to be a public official' shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

SEC. 03. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"226. Public Corruption.".

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(c) INTERRUPTION OF COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 04. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended by—

(1) striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 05. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value of any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed;

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act.".

(b) CONFORMING AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),".

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 11 of title 18, United States Code, is amended by inserting after the item for section 219 the following:

"220. Narcotics and public corruption.".

AMENDMENT NO. 530

At the appropriate place in the bill, insert the following:

SEC. . REGIONAL VIOLENT CRIME ASSISTANCE.

The Omnibus Crime and Safet Streets Act of 1968 (42 U.S.C. 3701 et seq.) is amended—

(1) by amending section 511 to read as follows:

"ALLOCATION OF FUNDS FOR GRANTS

"(a) SPECIAL DISCRETIONARY FUNDS.—Of the total amount appropriated for this part (other than chapter B of this subpart) in any fiscal year—

"(1) if that amount is $250,000,000 or less, 20 percent shall be reserved and set aside for this section in a special discretionary fund for use by the Director in carrying out the purposes specified in section 503;

"(2) if that amount is greater than $250,000,000 but less than $500,000,000—

"(A) $50,000,000 shall be reserved and set aside for this section in the special discretionary fund described in paragraph (1); and

"(B) 20 percent of the excess over $250,000,000 shall be reserved and set aside for this section in a special discretionary fund for use by the Director in carrying out the purposes specified in section 513; and

"(3) if that amount is greater than $500,000,000—

"(A) $50,000,000 shall be reserved and set aside for this section in the special discretionary fund described in paragraph (1); and

"(B) $50,000,000 shall be reserved and set aside for this section in the special discretionary fund described in paragraph (2)(B).

"(b) AMOUNT OF GRANTS.—Grants under this section may be made for amounts up to 100 percent of the costs of the programs or projects contained in the approved application.";

(2) in section 512 by inserting "for purposes specified in section 503" after "section 511"; and

(3) by inserting after section 512 the following new section:

"REGIONAL VIOLENT CRIME ASSISTANCE

"(a) PURPOSES OF GRANTS.—The Director may make a grant to a public agency for the purposes of—

"(1) enhancing law enforcement and criminal justice systems in regions that suffer from high rates of violent crime or fact particular violent crime problems that warrant Federal assistance; and

"(2) developing and implementing multijurisdictional strategies to respond to and prevent violent crime.

"(b) AMOUNT.—(1) No grantee under subsection (a) shall receive a grant exceeding $10,000,000.

"(c) CONSIDERATIONS IN AWARDING GRANTS.—(1) In awarding grants under subsection (a), the Director may give priority to—

"(A) applicants from or near jurisdictions with high rates of violent crime; and

"(B) applicants that propose to develop a multijurisdictional or regional approach to respond to or prevent violent crime.

"(2) The Director shall not limit grants under subsection (a) to highly populated centers of violent crime, but shall give due consideration to applications from less populated regions where the magnitude and severity of violent crime warrants Federal assistance.

"(3) The Director shall not limit grants under subsection (a) to the enhancement of law enforcement capabilities, but shall give due consideration to applications that propose to use funds for the improvement of the criminal justice system in general.".

RIEGLE AMENDMENT NOS. 529 AND 530

(Ordered to lie on the table.)

Mr. RIEGLE submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 529

At the appropriate place in the bill, insert the following:

SEC. —. REGIONAL VIOLENT CRIME ASSISTANCE.

The Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.) is amended—

(1) by amending section 511 to read as follows:

"ALLOCATION OF FUNDS FOR GRANTS

"(a) SPECIAL DISCRETIONARY FUNDS.—Of the total amount appropriated for this part (other than chapter B of this subpart) in any fiscal year—

"(1) if that amount is $250,000,000 or less, 20 percent shall be reserved and set aside for this section in a special discretionary fund for use by the Director in carrying out the purposes specified in section 503;

"(2) if that amount is greater than $250,000,000 but less than $500,000,000—

"(A) $50,000,000 shall be reserved and set aside for this section in the special discretionary fund described in paragraph (1); and

"(B) 20 percent of the excess over $250,000,000 shall be reserved and set aside for this section in a special discretionary fund for use by the Director in carrying out the purposes specified in section 513; and

"(3) if that amount is greater than $500,000,000—

"(A) $50,000,000 shall be reserved and set aside for this section in the special discretionary fund described in paragraph (1); and

"(B) $50,000,000 shall be reserved and set aside for this section in the special discretionary fund described in paragraph (2)(B)

"(b) AMOUNT OF GRANTS.—Grants under this section may be made for amounts up to 5 percent of the costs of the programs or projects contained in the approved application.";

(2) in section 512 by inserting "for purposes specified in section 503" after "section 511"; and

(3) by inserting after section 512 the following new section:

"REGIONAL VIOLENT CRIME ASSISTANCE

"(a) PURPOSES OF GRANTS.—The Director may make a grant to a state agency for the purposes of—

"(1) enhancing law enforcement and criminal justice systems in regions that suffer from high rates of violent crime or face particular violent crime problems that warrant Federal assistance; and

"(2) developing and implementing multijurisdictional strategies to respond to and prevent violent crime.

"(b) AMOUNT.—(1) No grantee under subsection (a) shall receive a grant exceeding $10,000,000.

"(c) CONSIDERATIONS IN AWARDING GRANTS.—(1) In awarding grants under subsection (a), the Director may give priority to—

"(A) states that develop and implement plans to assist law enforcement and criminal justice authorities from or near jurisdictions with high rates of violent crime; and

"(B) States that propose to develop a multijurisdictional or regional approach to respond to or prevent violent crime.

"(2) The Director shall not limit grants under subsection (a) to highly populated centers of violent crime, but shall give due consideration to applications from less populated regions where the magnitude and severity of violent crime warrants Federal assistance.

"(3) The Director shall not limit grants under subsection (a) to the enhancement of law enforcement capabilities, but shall give due consideration to applications that propose to use funds for the improvement of the criminal justice system in general.".

LEVIN AMENDMENT NO. 531

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

Amend subsection (a) of section 202 of title II dealing with the Special Hearing to Determine Whether a Sentence of Death is Justified (section 3593), with respect to the Return of a Finding Concerning a Sentence of Death (subsection e) to strike the following sentence:

"Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than a lesser sentence."

And insert in lieu thereof the following:

"Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall determine whether a sentence of death shall be imposed rather than a lesser sentence."

HATCH AMENDMENT NOS. 532 AND 533

(Ordered to lie on the table.)

Mr. HATCH submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 532

At the appropriate place, add the following:

SEC. . (a) Notwithstanding any other provision of law or regulation, no Federal department or agency may—

(1) revoke a contract for the sale of any federally owned building or facility to any nonprofit organization, except for cause; or

(2) revoke a grant or loan awarded to any recipient for the purpose of purchasing a building or facility intended for a bona fide community purpose, except for cause.

(b) For purposes of this section, the term "cause" means evidence of illegal activity by the nonprofit organization or recipient of Federal funds, evidence of illegal activity taking place at the site, default on payments required as a condition of the purchase; or a breach of the terms and conditions governing the use of the building or facility.

(c) This section shall apply to any action taken by a federal department or agency to revoke a contract, grant, or loan after December 31, 1987.

AMENDMENT NO. 533

At the appropriate place, insert the following:

In 28 U.S.C. Section 519, designate the current matter as subsection '(a)' and add the following:

(b) AWARD OF FEES.—

(1) CURRENT EMPLOYEES.—Upon the application of any current employee of the De-

partment of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for reasonable attorney's fees incurred by that employee as a result of such investigation.

(2) FORMER EMPLOYEES.—Upon the application of any former employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for those reasonable attorney's fees incurred by that former employee as result of such investigation.

(3) EVALUATION OF AWARD.—The Attorney General may make an inquiry into the reasonableness of the sum requested. In making such inquiry the Attorney General shall consider:

(A) the sufficiency of the documentation accompanying the request;

(B) the need or justification for the underlying item;

(C) the reasonableness of the sum requested in light of the nature of the investigation; and

(D) current rates for legal services in the community in which the investigation took place.

THURMOND AMENDMENT NO. 534

(Ordered to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

In title VIII, strike "4 years" wherever it appears and insert "8 years".

SIMPSON AMENDMENT NO. 535

(Ordered to lie on the table.)

Mr. SIMPSON submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . SPECIAL REMOVAL OF TERRORIST ALIENS.

The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 242B the following new section:

"REMOVAL OF ALIEN TERRORISTS

"SEC. 242C. (a) DEFINITIONS.—As used in this section—

"(1) the term 'alien terrorist' means any alien likely to engage in activity described in section 241(a)(4) (A)(iii) or (B), except for—

"(A) an alien who commits an act which the actor knows, or reasonably should know, affords material support to any individual, organization, or government in conducting a terrorist activity at any time, including any of the following acts:

"(i) The preparation or planning of a terrorist activity;

"(ii) The gathering of information on potential targets for terrorist activity;

"(iii) The providing of any type of material support, including a safe house, transportation, communications, funds, false identification, weapons, explosives, or training, to any individual the actor knows or has reason to believe has committed or plans to commit an act of terrorist activity;

"(iv) The soliciting of funds or other things of value for terrorist activity or for any terrorist organization;

"(v) The solicitation of any individual for membership in a terrorist organization, terrorist government, or to engage in a terrorist activity; and

"(B) an alien who has been present for at least seven years as a lawful permanent resident alien, and who has either a spouse, child or parent who is a United States citizen;

"(2) the term 'classified information' has the same meaning as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(3) the term 'national security' has the same meaning as defined in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(4) the term 'special court' means the court described in subsection (c) of this section; and

"(5) the term 'special removal hearing' means the hearing described in subsection (e) of this section.

"(b) APPLICATION FOR USE OF PROCEDURES.—The provisions of this section shall apply whenever the Attorney General certifies under seal to the special court that—

"(1) the Attorney General or Deputy Attorney General has approved of the proceeding under this section;

"(2) an alien terrorist is physically present in the United States; and

"(3) removal of such alien terrorist by deportation proceedings described in sections 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would—

"(A) disclose classified information;

"(B) disclose a confidential source of information; or

"(C) reveal an investigative technique important to efficient law enforcement.

"(c) SPECIAL COURT.—(1) The Chief Justice of the United States shall publicly designate up to seven judges from up to seven United States judicial districts to hear and decide cases arising under this section, in a manner consistent with the designation of judges described in section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)).

"(2) The Chief Justice may, in his discretion, designate the same judges under this section as are designated pursuant to section 103(a) of the Foreign Intelligence Surveillance Act of 1978.

"(d) INVOCATION OF SPECIAL COURT PROCEDURE.—(1) When the Attorney General makes the application described in subsection (b), a single judge of the special court shall consider the application in camera and ex parte.

"(2) The judge shall invoke the procedures of subsection (e), if the judge determines that there is probable cause to believe that—

"(A) the alien who is the subject of the application has been correctly identified;

"(B) a deportation proceeding described in sections 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would—

"(i) disclose classified information;

"(ii) disclose a confidential source of information; or

"(iii) reveal an investigative technique important to efficient law enforcement; and

"(C) the alien poses an immediate threat of death or serious bodily harm toward either—

"(i) a substantial number of persons in the United States or on board a common carrier departing the United States, or

"(ii) a citizen of the United States who holds public office or is otherwise of political significance.

"(e) SPECIAL REMOVAL HEARING.—(1) Except as provided in paragraph (4), the special removal hearing authorized by a showing of probable cause described in subsection (d)(2) shall be open to the public.

"(2) The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent such alien. Counsel may be appointed as described in section 3006A of title 18, United States Code.

"(3) The alien shall have—

"(A) a right to introduce evidence on his own behalf; and

"(B) except as provided in paragraph (4), a right to cross-examine any witness or request that the judge issue a subpoena for the presence of a named witness.

"(4) The judge shall authorize the introduction in camera and ex parte of any item of evidence for which the judge determines that public disclosure would pose a risk to the national security of the United States because it would—

"(A) disclose classified information;

"(B) disclose a confidential source of information; or

"(C) reveal an investigative technique important to efficient law enforcement.

"(5) With respect to any evidence described in paragraph (4), the judge shall cause to be delivered to the alien either—

"(A)(i) the substitution for such evidence of a statement admitting relevant facts that the specific evidence would tend to prove; or

"(ii) the substitution for such evidence of a summary of the specific evidence; or

"(B) if disclosure of even the substituted evidence described in subparagraph (A) would create a substantial risk of death or serious bodily harm to any person, a statement informing the alien that no such summary is possible.

"(6)(A) If the judge determines that the substituted evidence described in paragraph (5)(A) will provide the alien with substantially the same ability to make his defense as would disclosure of the specific evidence, then

"(i) such evidence shall be disclosed to the alien, and

"(ii) the determination of deportation (described in subsection (f)) may be made pursuant to this section.

"(B) If the judge determines that disclosure of even the substituted evidence described in paragraph (5)(A) would create a substantial risk of death or serious bodily harm to any person who is the source of the information, then the determination of deportation (described in subsection (f)) may be made pursuant to this section: *Provided*, That the judge makes the finding described in subparagraph (C).

"(C) For purposes of subparagraph (B), the judge shall issue a written statement finding that the alien's constitutional due process rights have been respected, including consideration of the following factors:

"(i) the alien's interest in remaining in the United States,

"(ii) whether the government has a compelling interest in not disclosing even the substituted evidence described in paragraph (5)(A), and

"(iii) whether the risk of an erroneous decision regarding deportability is low even if

the substitute evidence described in paragraph (5)(A) is not disclosed.

"(f) DETERMINATION OF DEPORTATION.—(1) If the determination in subsection (e)(6)(A) has been made, the judge shall, considering the evidence on the record as a whole, require that the alien be deported if the Attorney General proves, by clear and convincing evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

"(2) If the determination in subsection (e)(5)(B) has been made, the judge shall, considering the evidence received (in camera and otherwise), require that the alien be deported if the Attorney General proves, by clear, convincing, and unequivocal evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

"(g) APPEALS.—(1) The alien may appeal a determination under subsection (f) to the court of appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under such subsection.

"(2)(A) The Attorney General may appeal a determination under subsection (d), subsection (e), or subsection (f) to the court of appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under any one of such subsections.

"(B) When requested by the Attorney General, the entire record of the proceeding under this section shall be transmitted to the court of appeals under seal. If the Attorney General is appealing a determination under subsection (d) or (e), the court of appeals shall consider such appeal in camera and ex parte.".

SEYMOUR AMENDMENTS NOS. 536 AND 537

(Ordered to lie on the table.)

Mr. SEYMOUR submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 536

At the end of the bill, insert the following:

TITLE —EXPLOITATION OF ALIENS

SEC. 01. SHORT TITLE.

This title may be cited as the "Exploitation of Aliens Act of 1991".

SEC. 02. EXPLOITATION OF ALIENS.

(a) INDUCEMENT OF ALIENS.—A person who is 18 years of age or older who voluntarily solicits, counsels, encourages, commends, intimidates, or procures any alien with the intent that the alien commit an aggregated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

(b) COMMISSION OF CRIME BY ALIEN.—An alien who is induced by another person to commit and subsequently commits an aggravated felony, as defined in section 101(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

(c) CONSIDERATIONS.—In imposing a fine under subsection (a) or (b), the court shall consider the severity of the offense sought or committed by the offender as a circumstance in aggravation.

(d) ENFORCEMENT.—(1) A proceeding for assessment of a civil fine under subsection (a) or (b) may be brought in the first instance—

(A) in a civil action before a United States district court; or

(B) in an administrative proceeding before an administrative law judge in accordance with section 554 of title 5, United States Code.

(2) A decision and order of an administrative law judge under paragraph (1)(B) shall become the final agency decision and order of the Attorney General unless, within 30 days, the Attorney General modifies or vacates the decision and order, in which case the decision and order of the Attorney General shall become a final order.

(3) A person affected by a final order under this subsection may, not later than 45 days after the date on which the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(4)(A) If a person found in violation of subsection (a) or (b) fails to comply with a final order issued by a circuit court or administrative law judge, the Attorney General may bring a civil action to seek compliance with the order in any appropriate district court of the United States.

(B) In a civil action under subparagraph (A), the validity and appropriateness of the final order shall not be subject to review.

SEC. 03. CRIMINAL ALIEN IDENTIFICATION AND REMOVAL FUND.

(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States the Criminal Alien Identification and Removal Fund (referred to as the "Fund").

(2) All fines collected pursuant to section 02 shall be covered into the Fund and shall be used for the purposes of this section.

§ 03(b)(1) to read as follows:

"(b) DISTRIBUTION OF MONIES IN THE FUND.—(1) Ninety percent of the monies covered into in the fund in any fiscal year may be used by the Attorney General—

"(A) to assist the Immigration and Naturalization Service to identify, investigate, apprehend, detain, and deport aliens who have committed an aggravated felony, and

"(B) to fund any of the 20 additional immigration judge positions authorized by section 512 of the Immigration Act of 1990 which have not been funded.".

(2) Ten percent of the monies covered into the fund in any fiscal year may be distributed in the form of grants to the States by the Attorney General for the purposes of—

(A) assisting the States in implementing section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11));

(B) expanding section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)) to identify aliens—

(i) as they are processed for admission into State prisons; and

(ii) when they enter probation programs.

(c) TECHNICAL AMENDMENT.—Section 280(b)(1) of the Immigration and Nationality Act is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

AMENDMENT NO. 537

At the appropriate place insert the following:

SEC. . PENALTIES FOR PARTICIPATION IN GANG ACTIVITY.

(a) Any person who willfully promotes, furthers, or assists in any felonius criminal conduct by the members of a criminal gang with knowledge that its members engage or have engaged in a pattern of criminal gang activity, shall be imprisoned not less than one year and not more than three years, except as provided in subsection (b) of this section.

(b) Whoever is convicted of an offense against the United States, which is committed knowingly for the benefit of, at the direction of, or in association with any criminal gang shall be, except in the circumstances described in paragraph (2) of this section, imprisoned in addition and consecutive to the punishment prescribed for the offense, or attempted offense, not less than three and not more than seven years.

(2) Any person who is convicted of an offense that results in serious bodily injury shall be imprisoned in addition and consecutive to the punishment prescribed for the offense, or attempted offense, not less than seven and not more than twelve years.

(c) As used in this section—

(1) the term "serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(2) the term "criminal gang" means a criminal syndicate of three or more persons that is commonly known by a certain name or identifier that engages in or has as one of its purposes engaging in offenses involving

(i) assault, homicide, firearms, explosives, robbery, and burglary, extortion, fraud, and witness intimidation, as defined in this title, or

(ii) possession, possession for sale, sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in the Controlled Substances Act.

KENNEDY (AND OTHERS) AMENDMENT NO. 538

Mr. KENNEDY (for himself, Mr. HATCH, Mr. BIDEN, Mr. D'AMATO, Mr. DECONCINI, Mr. SPECTER, Mr. GRAHAM, and Mr. KERRY) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

SEC. . USE OF UNOBLIGATED FUNDS FROM CUSTOMS FORFEITURE FUND.

Section 613A(f)(3) of the Tariff Act of 1930 (19 U.S.C. 1613b(f)(3)) is amended by striking "in excess of" and all that follows through the period and inserting "remaining in the Fund shall be utilized as follows:

"(i) The first $15,000,000 shall remain in the Fund.

"(ii) The next $30,000,000 shall be transferred to the Department of Health and Human Services and expended for drug treatment through grant programs set forth in titles V or XIX of the Public Health Services Act.

"(iii) Any remaining money shall be deposited into the general fund of the Treasury of the United States.".

KOHL AMENDMENT NOS. 539 AND 540

(Ordered to lie on the table.)

Mr. KOHL submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 539

At the appropriate place, insert the following:

SEC. . DEPARTMENT OF JUSTICE COMMUNITY SUBSTANCE ABUSE PREVENTION ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1991".

(b) COMMUNITY PARTNERSHIPS.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General and the appropriate State agency in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General and the appropriate State agency may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General and the appropriate State agency shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General, and the appropriate State agency, evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General, or the appropriate State agency, may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall submit an annual review to the committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994."

(c) AMENDMENT TO TABLE OF SECTIONS.—The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse."

AMENDMENT NO. 540

At the appropriate place, insert the following:

SEC. . PILOT PROGRAMS AT STATE AND LOCAL PRISONS TO PROVIDE COMPREHENSIVE SUBSTANCE ABUSE TREATMENT SERVICES FOR WOMEN.

Section 511 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3761) is amended by—

(1) inserting "(a) IN GENERAL.—" before "Of the total amount"; and

(2) adding at the end thereof the following:

"(b) CHILD AND YOUTH SOCIAL SERVICE PROGRAM STUDY.—Notwithstanding subsection (a), not less than $3,000,000 of the amount appropriated under this subpart shall be used for—

"(1) providing or arranging for the provision of intervention services for female inmates, including—

"(A) substance abuse and addiction treatment services, with priority given to discrete treatment units which provide detoxification if necessary, comprehensive substance abuse education, the development of individualized treatment plans, individual and group counseling, and ongoing access to self-help groups;

"(B) support services (such as counseling to address family violence and sexual assault);

"(C) life skills training (such as parenting and child development classes);

"(D) education services (such as literacy and vocational training); and

"(E) after care services; and

"(2) providing or arranging for the provision of ancillary social services and such other assistance that will ensure that women can maintain contact with their children and their children will receive age appropriate substance abuse education and counseling.".

SPECTER AMENDMENT NO. 541

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

On page 86, strike line 3 and all that follows through page 114, line 10, and insert the following:

TITLE VIII—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SEC. 801. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 802. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 803. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B and shall have authority to promulgate regulations to implement this title.

SEC. 804. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subtitle A or the Law Enforcement Scholarship program under subtitle B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subtitle A, meet the requirements of section 816; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subtitle B, meet the requirements of section 826.

Subtitle A—Police Corps Program

SEC. 811. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 813;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 816.

SEC. 812. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $10,000; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $40,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $10,000; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $40,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 814, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 814; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties;

shall be entitled to the scholarship assistance authorized in this section. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 814.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purposes of this section the term "institution of higher education" has the meaning given that term in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 813. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 815(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 815, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 815, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of racial and ethnic groups whose representation on the police forces within the State is substantially less than in the population of the State as a whole. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 814. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 816 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 815. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 814 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 812, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 812(d)(1)(C) shall not apply.

SEC. 816. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 813;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since July 10, 1991; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 817. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $100,000,000 for each of fiscal years 1992 and 1993, and $200,000,000 for each of fiscal years 1994, 1995, and 1996.

Subtitle B—Law Enforcement Scholarships Program

SEC. 821. SHORT TITLE.

This Subtitle may be cited as the "Law Enforcement Scholarships and Recruitment Subtitle".

SEC. 822. DEFINITIONS.

As used in this subtitle—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree;

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 823. ALLOTMENT.

From amounts appropriated pursuant to the authority of section 11, the Director shall allot—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such funds to States on the basis of the shortage of law enforcement personnel and the need for assistance under this subtitle in the State compared to the shortage of law enforcement personnel and the need for assistance under this subtitle in all States.

SEC. 824. PROGRAM ESTABLISHED.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—Each State receiving an allotment pursuant to section 823 shall use such allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; and

(ii) part-time (not to exceed 20 hours per week) employment during a period not to exceed one year.

(2) EMPLOYMENT.—The employment described in subparagraph (B) of paragraph (1) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an accredited institution of higher education and who demonstrate an interest in undertaking a career in law enforcement. Such employment shall not be in a law enforcement position. Such employment shall consist of performing meaningful tasks that inform such students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall pay to each State receiving an allotment under section 823 the Federal share of the cost of the activities described in the application submitted pursuant to section 827.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of scholarships and student employment provided under this subtitle shall be supplied from sources other than the Federal Government.

(c) LEAD AGENCY.—Each State receiving an allotment under section 823 shall designate an appropriate State agency to serve as the lead agency to conduct a scholarship program, a student employment program, or both in the State in accordance with this subtitle.

(d) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this subtitle.

(e) ADMINISTRATIVE EXPENSES.—Each State receiving an allotment under section 823 may reserve not more than 8 percent of such allotment for administrative expenses.

(f) SPECIAL RULE.—Each State receiving an allotment under section 823 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(g) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 825. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 826. ELIGIBILITY.

(a) SCHOLARSHIPS.—An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for the 2-year period immediately proceeding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—An individual who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subtitle.

SEC. 827. STATE APPLICATION.

Each State desiring an allotment under section 823 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) describe the scholarship program and the student employment program for which assistance under this subtitle is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subtitle;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subtitle and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subtitle;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of individuals receiving scholarships under this subtitle;

(7) with respect to such student employment program, identify—

(A) the employment tasks students will be assigned to perform;

(B) the compensation students will be paid to perform such tasks; and

(C) the training students will receive as part of their participation in such program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 828. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual who desires a scholarship or employment under this subtitle all submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for

which a scholarship is sought, or the location and duration of employment sought, as appropriate.

(b) PRIORITY.—In awarding scholarships and providing student employment under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. 829. SCHOLARSHIP AGREEMENT.

(A) IN GENERAL.—Each individual who receives a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurance that the individual will work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay the entire scholarship awarded under this subtitle in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of such agreement are not complied with unless the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awards such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awards such individual the scholarship for a period of one month for each credit hour for which funds are received under such scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement specified in paragraph (1), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 830. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out this subtitle.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be available to provide scholarships described in section 824(a)(1)(A); and

(2) 25 percent shall be available to provide employment described in sections 824(a)(1)(B) and 824(a)(2).

Subtitle C—Reports

SEC. 831. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subtitle B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

SEYMOUR AMENDMENT NO. 542

(Ordered to lie on the table.)

Mr. SEYMOUR submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

SEC. . PENALTIES FOR CRIMINAL GANG ACTIVITY.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 1 of title 18, United States Code, as amended by section —, is amended by adding at the end thereof the following new section:

"§ 22. Criminal gang activity

"(a) PROMOTING, FURTHERING, OR ASSISTING IN CRIMINAL GANG ACTIVITY.—Except to the extent that a greater sentence is provided by other law (including subsection (b)), a person who willfully promotes, furthers, or assists in any felonious criminal conduct by the members of a criminal gang, with knowledge that its members engage or have engaged in a pattern of criminal gang activity, shall be imprisoned not less than 1 year and not more than 3 years.

"(b) ENHANCED PENALTY.—(1) Except as provided in paragraph (2), a person who is convicted of an offense shall, if the offense is committed knowingly for the benefit of, at the direction of, or in association with a criminal gang, in addition and consecutive to any term of imprisonment imposed for that offense, be imprisoned not less than 3 years and not more than 7 years.

"(2) In the case of an offense described in paragraph (1) that results in serious bodily injury to any person, the offender, in addition and consecutive to any term of imprisonment imposed for that offense, shall be imprisoned not less than 7 years and not more than 12 years.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'criminal gang' means a criminal syndicate of 3 or more persons that is commonly known by a certain name or identifier that engages in or has as 1 of its purposes engaging in offenses involving—

"(A) assault, homicide, firearms, explosives, robbery, burglary, extortion, fraud, or witness intimidation; or

"(B) possession, possession for sale, sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances (as those terms are defined in the Controlled Substances Act (21 U.S.C. 801 et seq.)); and

"(2) the term 'serious bodily injury' means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss of impairment of the function of a bodily member, organ, or mental faculty.".

(b) TECHNICAL AMENDMENT.—The table of chapters for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"22. Criminal gang activity.".

LEAHY AMENDMENT NO. 543

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

SEC. . FEDERAL BUREAU OF INVESTIGATION ACCESS TO CERTAIN TELEPHONE SUBSCRIBER INFORMATION.

(a) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director in the Intelligence Division, may—

"(1) request the name, address, length of service, and toll billing records if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

"(2) request the name, address, and length of service of a person or entity if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of such provider, in communication with—

"(i) an individual who is engaging or has engaged in international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillence Act or clandestine intelligence activities that involve or may in-

volve a violation of the criminal statutes of the United States; or

"(ii) a foreign power or an agent of a foreign power under circumstances giving reason to believe that the communication concerned international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.".

(b) REPORT TO JUDICIARY COMMITTEES.—Section 2709(e) of title 18, United States Code, is amended by adding after "Senate" the following: ", and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,".

Notwithstanding any other provisions of this Act, the last paragraph of section 2515 of title 18, United States Code, as amended by this Act, is repealed.

WOFFORD AMENDMENT NO. 544

(Ordered to lie on the table.)

Mr. WOFFORD submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the end of the bill, add the following:

TITLE —ENVIRONMENTAL COMPLIANCE

SEC. 01. ENVIRONMENTAL COMPLIANCE.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 33 the following new chapter:

"CHAPTER 34—ENVIRONMENTAL COMPLIANCE

"731. Environmental compliance audit.
"732. Definition.

"§ 731. Environmental compliance audit

"(a) IN GENERAL.—A court of the United States—

"(1) shall, when sentencing an organization for an environmental offense that is a felony; and

"(2) may, when sentencing an organization for a misdemeanor environmental offense,

require that the organization pay for an environmental compliance audit.

"(b) APPOINTMENT OF INDEPENDENT EXPERT.—The court shall appoint an independent expert—

"(1) with no prior involvement in the management of the organization sentenced to conduct an environmental compliance audit under this section; and

"(2) who has demonstrated abilities to properly conduct such audits.

"(c) CONTENTS OF COMPLIANCE AUDIT.—(1) An environmental compliance audit shall—

"(A) identify all causes of and factors relating to the offense; and

"(B) recommend specific measures that should be taken to prevent a recurrence of those causes and factors and avoid potential environmental offenses.

"(2) An environmental compliance audit shall not recommend measures under paragraph (1)(B) that would require the violation of an environmental statute, regulation, or permit.

"(d) COURT-ORDERED IMPLEMENTATION OF COMPLIANCE AUDIT.—The court shall order the defendant to implement the appropriate recommendations of the environmental compliance audit.

"(e) ADDITIONAL STANDING TO RAISE FAILURE TO IMPLEMENT COMPLIANCE AUDIT.—(1) The prosecutor, auditor, any governmental agency, or any private individual may present evidence to the court that a defendant has failed to comply with the court order under subsection (d).

"(2) When evidence of failure to comply with the court order under subsection (d) is presented pursuant to paragraph (1), the court shall consider all relevant evidence and, if the court determines that the defendant has not fully complied with the court order, order appropriate sanctions.

"§ 732. Definition

"For the purposes of this chapter, the term 'environmental offense' means a criminal violation of—

"(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

"(2) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly known as the Clean Water Act);

"(3) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

"(4) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(5) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

"(6) the Solid Waste Disposal Act (42 U.S.C. 5901 et seq.);

"(7) title XIV of the Public Health Service Act (42 U.S.C. 300f et seq.) (commonly known as the Safe Drinking Water Act); and

"(8) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).".

(b) TECHNICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 33 the following new item:

JEFFORDS AMENDMENT NO. 545

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following new subsections and redesignate accordingly:

SEC. . COMPLIANCE ASSURANCE ACTIVITIES.

(a) REPORTING OF COMPLIANCE ASSURANCE ACTIVITIES.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this section, the Administrator of the Environmental Protection Agency (referred to in this subsection as the "Administrator") shall promulgate regulations that require that each applicant for a permit issued under any provision of law described in paragraphs (1) through (8) of section 732 of title 18, United States Code, and each permittee issued a permit under any such provision, shall, as a condition to receiving any such permit, agree to—

(A) evaluate the internal control system of the entity that is the subject of the permit for the purpose of complying with clause (ii) of subparagraph (B);

(B) set forth in the application for the permit or a renewal of the permit—

(i) a brief description of the environmental compliance assurance system of the permittee (or applicant for a permit) used to ensure compliance with Federal, State, and local environmental laws;

(ii) an assessment of whether such environmental compliance assurance system (after any corrections of the type referred to in clause (iv)) reasonably assures compliance with Federal, State, and local environmental laws; and

(iii) the disclosure of any material weaknesses that have been identified in such environmental compliance assurance system and that have not been substantially corrected by the permittee (or applicant for a permit) as of the date of the filing of the permit application or permit renewal application.

(2) REQUIREMENT FOR REGULATIONS.—

(A) In promulgating regulations under this subsection, the Administrator shall ensure that—

(i) no such regulation shall create an unreasonable economic burden with respect to—

(I) small communities (as defined in subparagraph (B)); and

(II) small business concerns (as defined in section 3(a)(1) of the Small Business Act (15 U.S.C. 532(a)(1)); and

(ii) to the maximum extent possible, such regulations shall not impede the development or implementation of a consistent compliance assurance program by any permittee (within a single facility or among multiple facilities).

(B) For the purposes of this paragraph, the term "small community" means an incorporated or unincorporated community (as defined by the Administrator) with a population of less than 5,000 individuals.

(3) CONFIDENTIALITY OF AUDITS.—(A) Except as provided in subparagraph (B), notwithstanding any other provision of law, the Administrator may not require any permittee that is subject to the requirements of this section to submit any information (including any report or record) with respect to an environmental audit conducted by the permittee with respect to a facility of the permittee if such information is not otherwise required to be submitted pursuant to the reporting requirements under this subsection.

(B) If the Administrator determines that the information described in subparagraph (A) is material to a criminal investigation, the Administrator may require a permittee to submit such information.

(d) RULE OF CONSTRUCTION.—The amendments made by this Act shall not be construed as preempting regulation by the States of any activities that may have an effect on the environment.

WIRTH AMENDMENT NO. 546

(Ordered to lie on the table.)

Mr. WIRTH submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following new title:

TITLE —PUBLIC INFORMATION CONCERNING FAILED DEPOSITORY INSTITUTIONS

SEC. 01. AVAILABILITY OF EXAMINATION REPORTS.

(a) PUBLIC AVAILABILITY OF INFORMATION.—The appropriate Federal banking agency shall publish and make available to the public reports of all examinations of each institution described in section 04, or of a holding company of such institution, that was performed by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, or any predecessor thereof, during the 5-year period preceding the transfer, failure, or receipt of funds described in section 04.

(b) DELAY OF PUBLICATION.—If the appropriate Federal banking agency makes a determination in writing that publication of an examination report would seriously threaten the safety or soundness of an insured depository institution, such agency may delay publication of the examination report for a reasonable period of time, not to exceed 6 months from the date of the transfer, failure, or receipt of funds described in section 04.

SEC. 02. PROHIBITION OF CONFIDENTIAL SETTLEMENTS.

Notwithstanding any other provision of law or any rule, regulation, or order issued thereunder, all agreements or settlements of claims between the Resolution Trust Corporation or the Federal Deposit Insurance Corporation and any other party, where such agreement or claim relates to an institution described in section 04, shall be published and made available to the public.

SEC. 03. APPLICABILITY.

The requirements of section 01 shall apply—

(1) to any insured depository institution that has had its assets or liabilities, or any part thereof, transferred to the FSLIC Resolution Fund or the Resolution Trust Corporation; and

(2) to any member of the Bank Insurance Fund, if during the fiscal year that the institution has either failed or received funds, as defined in section 04, the Bank Insurance Fund—

(A) has outstanding loans, or has otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) has a negative fund balance; and

(3) to any member of the Savings Association Insurance Fund, if during the fiscal year that the institution has either failed or received funds, as defined in section 04, the Savings Association Insurance Fund—

(A) has outstanding loans, or has otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) has a negative fund balance.

SEC. 04. DEFINITIONS.

For purposes of this title—

(1) an insured depository institution has "failed" if—

(A) the Federal Deposit Insurance Corporation or the Resolution Trust Corporation—

(i) has been appointed as conservator or receiver for such institution; or

(ii) has exercised the power to provide assistance under section 13(c) of the Federal Deposit Insurance Act or section 21A of the Federal Home Loan Bank Act; or

(B) a bridge bank has been established under section 11(i) of the Federal Deposit Insurance Act;

(2) an insured depository institution has "received funds" if the institution, its holding company, or an acquiring institution receives cash or other valuable consideration from any Federal Reserve bank, the Resolution Trust Corporation or the Federal Deposit Insurance Corporation, whether in the form of a loan, a payment to depositors or other creditors, the assumption of liabilities, or otherwise; and

(3) the term "insured depository institution" shall have the same meaning as in section 3 of the Federal Deposit Insurance Act.

DOLE AMENDMENT NO. 547

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place, add the following:

SEC. . DRUG DISTRIBUTION TO PREGNANT WOMEN.

Section 418 of the Controlled Substances Act (21 U.S.C. 845) is amended by inserting ", or to a woman while she is pregnant," after "to a person under twenty-one years of age" in subsection (a) and subsection (b).

DOLE AMENDMENT NO. 548

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to amendment No. 503 proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place, add the following:

Notwithstanding any other provision of this Act amendment No. 503 is deemed to have the following changes:

(u)(1)(F): After (E) insert "or" and add a new subparagraph as follows:

"(F) The law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law."

[Note: This is identical with S. 1241, Calendar 110, page 238, line 21, and page 239, lines 3–10. It creates an exemption for States like Virginia, Florida, and Delaware with an instant criminal record check.]

(u)(7)(B): Delete "and" and insert "any". After "destroy", insert "the statement and".

§ 2701(b)

(v)(2)(C): Make the same change as for (u)(1)(F) above, except use "(D)" instead of "(F)".

(v)(5): After "employee", insert "or a political subdivision of a State or employee thereof".

§ 2702

(b)(1): After "criminal", insert "conviction".

(i)(1): After "action", insert ", other than a record concerning a person prohibited from receipt of a firearm under § 922 (g) or (n),".

DOLE AMENDMENT NOS. 549 AND 550

(Ordered to lie on the table.)

Mr. DOLE submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT No. 549

At the appropriate place, add the following:

SEC. . TESTING OF CERTAIN INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSES FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) HIV RELATED SERVICES FOR VICTIMS.—Victims of any offense of the type described in chapter 109A of title 18, United States Code, shall, on request, be provided with

(1) anonymous and confidential testing for the presence of the etiologic agent for acquired immune deficiency syndrome, and counseling concerning such, at no cost by appropriately trained staff operating through appropriate service providers, including rape crisis centers, community health centers, public health clinics, physicians, or other appropriate service providers; follow-up tests and counseling will be available at no cost on dates that occur six months and twelve months following the date of the initial test; and

(2) necessary and appropriate medical care.

(b) LIMITED TESTING OF DEFENDANTS.—

(1) COURT ORDER.—The victim of an offense of the type referred to in subsection (a) may obtain an order in the district court of the United States for the district in which charges are brought against the defendant charged with the offense, after notice to the defendant and on opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim must be accompanied by appropriate counseling.

(2) SHOWING REQUIRED.—To obtain an order under paragraph (1), the victim must demonstrate that—

(A) The defendant has been charged with the offense in a state or federal court, and, if the defendant has been arrested without a warrant, a probable cause determination has been made.

(B) The test for the etiologic agent for acquired immune deficiency syndrome is requested by the victim; and

(C) The court determines that the alleged conduct of the defendant created a risk of transmission of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) FOLLOWUP TESTING.—The court shall order follow-up tests and counseling under paragraph (b)(1) if the initial test was negative. Such followup tests and counseling shall be performed at the request of the victim on dates that occur six months and twelve months following the date of the initial test.

(4) TERMINATION OF TESTING REQUIREMENTS.—An order for follow-up testing under paragraph (3) shall be terminated if the individual to be tested obtains an acquittal on, or dismissal of, all charged against such individual.

(c) CONFIDENTIALITY OF TEST.—The results of any test ordered under this section shall be disclosed only to the victim, or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested.

(d) DISCLOSURE OF TEST RESULTS.—The court shall issue an order to prohibit the disclosure of the results of any test performed under this section to anyone other than those mentioned in subsection (c). The contents of the court order shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial, except that testing ordered under this section shall not be a bar to testing permitted under any other law.

(e) CONTEMPT FOR DISCLOSURE.—A victim who disclosed the results of a test in violation of this section may be held in contempt of court.

(f) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.

AMENDMENT No. 550

At the appropriate place, add the following:

DOMESTIC AND STREET CRIME VIOLENCE AGAINST WOMEN

Subtitle A—Safety on College and University Campuses

SEC. 201. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)), as added by section 204(a) of the Crime Awareness and Campus Security Act of 1990 (Public Law 101-542), is amended—

(1) in paragraph (1)(F), to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape, sexual assault, or any other abusive sexual conduct;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft."; and

(2) in paragraph (3), to read as follows:

"(3) Each institution participating in any program under this section shall make timely reports on criminal offenses described in paragraph (1)(F) that the institution considers to be a threat to other students and employees. The institution shall provide the reports to students, parents or guardians of students, and employees, at the institution, and to local police agencies, in a manner that is timely and that will aid in the prevention of similar occurrences.".

Subtitle B—Stronger Penalties for Federal Sex Offenses

SEC. 211. CAPITAL PUNISHMENT FOR MURDERS IN CONNECTION WITH SEXUAL ASSAULTS AND CHILD MOLESTATIONS.

Title 18 of the United States Code is amended—

(1) by adding at the end of chapter 51 the following new section:

"§ 1118. Capital Punishment for Murders in Connection with Sexual Assaults and Child Molestations

"(a) OFFENSE.—It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the course of another offense against the United States.

"(c) PENALTY.—An offense described in this section is a Class A felony. A sentence of death may be imposed for an offense described in this section as provided in subsections (d) through (l), except that a sentence of death may not be imposed on a defendant who was below the age of eighteen at the time of the commission of the crime.

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2 of this title) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors:

"(1) KILLING IN COURSE OF DESIGNATED SEX CRIMES.—The conduct resulting in death occurred in the course of an offense defined in chapter 109A, 110, or 117 of this title.

"(2) KILLING IN CONNECTION WITH SEXUAL ASSAULT OR CHILD MOLESTATION.—The defendant committed a crime of sexual assault or crime of child molestation, as defined in subsection (x), in the course of an offense on which Federal jurisdiction is based under subsection (b).

"(3) PRIOR CONVICTION OF SEXUAL ASSAULT OR CHILD MOLESTATION.—The defendant has previously been convicted of a crime of sexual assault or crime of child molestation as defined in subsection (x).

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided may include factors concerning the effect of the offense on the victim and the family of the victim. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have twelve members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the judge. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to 'the jury' in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that one or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, then the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law.

"(m) REVIEW OF A SENTENCE OF DEATH.—The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judg-

ment of conviction. An appeal of a sentence under this subsection may be consolidated with an appeal of the judgment of conviction and shall have priority over all non-capital matters in the court of appeals. The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error requiring reversal of the sentence that was properly preserved for review and raised on appeal. In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed, or in the manner prescribed by the law of another State designated by the court if the law of the State in which the sentence was imposed does not provide for implementation of a sentence of death. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION OF PREGNANT WOMEN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections or the Federal Bureau of Prisons and no person providing services to that department or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at, or to participate in, any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005 of this title, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, the provisions of section 3006A of this title shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make a determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsections (q) and (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 2255 of title 28, United States Code, attacking a sentence of death under this section, or the conviction on which it is predicated, must be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'crime of sexual assault' means a crime under Federal or State law that involved—

"(A) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(B) contact, without consent, between the genitals or anus of the defendant and any part of the body of another person;

"(C) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(D) an attempt or conspiracy to engage in any conduct described in paragraphs (A) through (C);

"(2) 'crime of child molestation' means a crime under Federal or State law that involved—

"(A) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(B) contact between the genitals or anus of the defendant and any part of the body of a child;

"(C) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(D) an attempt or conspiracy to engage in any conduct described in paragraphs (A) through (C); and

"(3) 'child' means a person below the age of 14."; and

(2) by adding the following at the end of the table of sections for chapter 51:

"1118. Capital punishment for murders in connection with sexual assaults and child molestations.".

SEC. 212. INCREASED PENALTIES FOR RECIDIVIST SEX OFFENDERS.

(a) REDESIGNATION.—Section 2245 of title 18, United States Code, is redesignated section 2246.

(b) NEW SECTION.—Chapter 109A of title 18, United States Code, is amended by inserting the following new section after section 2244:

"§ 2245. Penalties for subsequent offenses

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(c) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by—

(1) striking "2245" and inserting in lieu thereof "2246"; and

(2) inserting the following after the item relating to section 2244:

"2245. Penalties for subsequent offenses.".

SEC. 213. DEFINITION OF SEXUAL ACT FOR VICTIMS BELOW 16 YEARS OF AGE.

Paragraph (2) of section 2246 of title 18, United States Code, as redesignated by section 212 of this Act, is amended—

(1) in subparagraph (B) by striking "or" after the semicolon;

(2) in subparagraph (C) by striking "; and" and inserting "; or"; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

SEC. 214. DRUG DISTRIBUTION TO PREGNANT WOMEN.

Section 418 of the Controlled Substances Act (21 U.S.C. 845) is amended by inserting ", or to a woman while she is pregnant," after "to a person under twenty-one years of age" in subsection (a) and subsection (b).

Subtitle D—Reform of Procedure and Evidentiary Requirements in Sex Offense and Other Cases

SEC. 231. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEXUAL ASSAULT AND CHILD MOLESTATION CASES.

The Federal Rules of Evidence are amended by adding after rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and rule 415, 'offense of sexual assault' means a crime under Federal law or the law of a State that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1) through (4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and rule 415, 'child' means a person below the age of fourteen, and 'offense of child molestation' means a crime under Federal law or the law of a State that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1) through (5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in rule 413 and rule 414.

"(b) A party who intends to offer evidence under this rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.".

SEC. 232. RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.

(a) FEDERAL RULES OF CRIMINAL PROCEDURE.—Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking "the Government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges" and inserting "each side is entitled to 6 peremptory challenges".

(b) PROHIBITION OF DISCRIMINATION IN SELECTION OF JURY.—Section 243 of title 18, United States Code, is amended by designating the text of the section as subsection (a) and by adding a new subsection at the end thereof as follows:

"(b) In a proceeding in a court of the United States, an attorney representing a criminal defendant shall not exercise peremptory challenges to exclude any person from the jury on the basis of race or color, or on the basis of any other classification that could not lawfully be used by a prosecutor as the basis for exercising peremptory challenges. The prosecutor shall have the same right as the defense attorney to challenge the exercise of peremptory challenges on this ground. In determining whether a defense attorney has engaged in discrimination in violation of this subsection, a court shall apply the same standards that would apply in making a like determination concerning the exercise of peremptory challenges by a prosecutor, and shall have the authority to grant the same relief that would be available in case of unlawful discrimination by a prosecutor.".

SEC. 233. RULES OF PROFESSIONAL CONDUCT FOR LAWYERS IN FEDERAL PRACTICE.

The following rules, to be known as the Rules of Professional Conduct for Lawyers in Federal Practice, are enacted and shall be included as an appendix to title 28, United States Code:

"RULES FOR PROFESSIONAL CONDUCT FOR LAWYERS IN FEDERAL PRACTICE

"Rule 1. Scope
"Rule 2. Litigation Abuses Prohibited
"Rule 3. Expediting Litigation
"Rule 4. Duty to Prevent Commission of Crime

"Rule 1. Scope

"(a) These rules apply to the conduct of lawyers in their representation of clients in relation to proceedings and potential proceedings before Federal tribunals.

"(b) For purposes of these rules, 'Federal tribunal' and 'tribunal' mean a court of the United States or an agency of the Federal Government that carries out adjudicatory or quasi-adjudicatory functions.

"Rule 2. Litigation Abuses Prohibited

"(a) A lawyer shall not engage in any action or course of conduct for the purpose of increasing the expense of litigation for any person, other than a liability under an order or judgment of a tribunal.

"(b) A lawyer shall not engage in any action or course of conduct that has no substantial purpose other than to distress, harass, embarrass, burden, or inconvenience another person.

"(c) A lawyer shall not offer evidence that the lawyer knows to be false or attempt to

discredit evidence that the lawyer knows to be true.

"Rule 3. Expediting Litigation

"(a) A lawyer shall seek to bring about the expeditious conduct and conclusion of litigation.

"(b) A lawyer shall not seek a continuance or otherwise attempt to delay or prolong proceedings in the hope or expectation that—

"(1) evidence will become unavailable;

"(2) evidence will become more subject to impeachment or otherwise less useful to another party because of the passage of time; or

"(3) an advantage will be obtained in relation to another party because of the expense, frustration, distress, or other hardship resulting from prolonged or delayed proceedings.

"Rule 4. Duty to Prevent Commission of Crime

"(a) A lawyer may disclose information relating to the representation of a client to the extent necessary to prevent the commission of a crime or other unlawful act.

"(b) A lawyer shall disclose information relating to the representation of a client where disclosure is required by law. A lawyer shall also disclose such information to the extent necessary to prevent—

"(1) the commission of a crime involving the use or threatened use of force against another, or a substantial risk of death or serious injury to another; or

"(2) the commission of a crime of sexual assault or child molestation.

"(c) For purposes of this rule, the term 'crime' means a crime under Federal law or the law of a State, and the term 'unlawful act' means an act in violation of the law of the United States or the law of a State.".

SEC. 234. STATUTORY PRESUMPTION AGAINST CHILD CUSTODY.

(a) FINDINGS.—The Congress finds that—

(1) State courts have often failed to recognize the detrimental effects of having as a custodial parent an individual who physically abuses his or her spouse, insofar as the courts do not hear or weigh evidence of domestic violence in child custody litigation;

(2) joint custody forced upon hostile parents can create a dangerous psychological environment for a child;

(3) physical abuse of a spouse is relevant to child abuse in child custody disputes;

(4) the effects of physical abuse of a spouse on children include actual and potential emotional and physical harm, the negative effects of exposure to an inappropriate role model, and the potential for future harm where contact with the batterer continues;

(5) children are emotionally traumatized by witnessing physical abuse of a parent;

(6) children often become targets of physical abuse themselves or are injured when they attempt to intervene on behalf of a parent;

(7) even children who do not directly witness spousal abuse are affected by the climate of violence in their homes and experience shock, fear, guilt, long lasting impairment of self-esteem, and impairment of developmental and socialization skills;

(8) research into the intergenerational aspects of domestic violence reveals that violent tendencies may be passed on from one generation to the next;

(9) witnessing an aggressive parent as a role model may communicate to children that violence is an acceptable tool for resolving marital conflict; and

(10) few States have recognized the interrelated nature of child custody and battering and have enacted legislation that allows or requires courts to consider evidence of physical abuse of a spouse in child custody cases.

(b) SENSE OF THE CONGRESS.—(1) It is the sense of the Congress that, for purposes of determining child custody, credible evidence of physical abuse of a spouse should create a statutory presumption that it is detrimental to the child to be placed in the custody of the abusive spouse.

(2) This section is not intended to encourage States to prohibit supervised visitation.

SEC. 235. FULL FAITH AND CREDIT FOR PROTECTIVE ORDERS.

(a) ENFORCEMENT.—A protective order issued by a court of a State shall have the same full faith and credit in a court in another State that the order would have in a court of the State in which issued, and shall be enforced by the courts of any State as if it were issued in the State.

(b) DEFINITIONS.—As used in this section:

(1) The term "protective order" means an order prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person.

(2) The term "State" has the meaning given the term in section 513(c)(5) of title 18, United States Code.

SEC. 236. HIV TESTING AND PENALTY ENHANCEMENT IN SEXUAL ABUSE CASES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by inserting at the end thereof the following new section:

"§ 2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty

"(a) TESTING AT TIME OF PRE-TRIAL RELEASE DETERMINATION.—In a case in which a person is charged with an offense under this chapter, a judicial officer issuing an order pursuant to section 3142(a) of this title shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that follow-up tests for the virus be performed six months and twelve months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order. The order shall direct that the initial test be performed within 24 hours, or as soon thereafter as feasible. The person shall not be released from custody until the test is performed.

"(b) TESTING AT LATER TIME.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that follow-up tests be performed six months and twelve months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim. A testing requirement under this subsection may be imposed at any time while the charge is pending, or following conviction at any time prior to the person's completion of service of the sentence.

"(c) TERMINATION OF TESTING REQUIREMENT.—A requirement of follow-up testing imposed under this section shall be cancelled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

"(d) DISCLOSURE OF TEST RESULTS.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court. The judicial officer or court shall ensure that the results are disclosed only to the victim (or to the victim's parent or legal guardian, as appropriate), the attorney for the Government, and the person tested.

"(e) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.".

(b) CLERICAL AMENDMENT.—The chapter heading for chapter 109A of title 18, United States Code, is amended by inserting at the end thereof the following new item:

"2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty.".

SEC. 237. PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: ", the cost of up to two tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault".

Subtitle E—National Task Force on Violence Against Women

SEC. 241. ESTABLISHMENT.

Not later than 30 days after the date of enactment of this subtitle, the Attorney General shall establish a task force to be known as the "National Task Force on Violence against Women" (referred to in this subtitle as the "task force").

SEC. 242. DUTIES OF TASK FORCE.

(a) GENERAL PURPOSE OF TASK FORCE.—The task force shall develop a uniform Federal, State, and local law enforcement strategy aimed at protecting women against violent crime, punishing persons who commit such crimes, and enhancing the rights of victims of such crimes.

(b) DUTIES OF TASK FORCE.—The task force shall perform such functions as the Attorney General deems appropriate to carry out the purposes of the task force, including—

(1) considering the reports of past Federal and State task forces or commissions on violent crime, family violence, and crime victims, including the President's Task Force on Victims of Crime (1982), the Attorney General's Task Force on Family Violence (1984), and the task forces and commissions established by the States of Alabama, Alaska, Arkansas, Hawaii, Idaho, Indiana, Kansas, Louisiana, Michigan, Minnesota, Nebraska, New Mexico, New York, North Carolina, Rhode Island, Virginia, Texas, and Wyoming;

(2) developing strategies for Federal, State, and local law enforcement designated to protect women against violent crime, and to prosecute and punish those responsible for such crime;

(3) evaluating the adequacy of sentencing, incarceration, and release of violent offenders against women, and making recommendations designated to ensure that such offenders receive appropriate punishment; and

(4) evaluating the adequacy of the treatment of victims of violent crime against

women within the criminal justice system, and making recommendations designed to improve such treatment.

SEC. 243. MEMBERSHIP.

(a) IN GENERAL.—The task force shall consist of up to 10 members, who shall be appointed by the Attorney General not later than 60 days after the date of enactment of this subtitle. The Attorney General shall ensure that the task force includes representatives of State and local law enforcement, the State and local judiciary, and groups dedicated to protecting the rights of victims.

(b) CHAIRMAN.—The Attorney General or his designee shall serve as the chairman of the task force.

SEC. 244. PAY.

(a) NO ADDITIONAL COMPENSATION.—Members of the task force who are officers or employees of a governmental agency shall receive no additional compensation by reason of their service on the task force.

(b) PER DIEM.—While away from their homes or regular places of business in the performance of duties for the task force, members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 245. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The task force shall have an Executive Director who shall be appointed by the Attorney General not later than 30 days after the task force is fully constituted under section 243.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS–18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the task force, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the task force.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the task force appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the task force, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 246. POWERS OF TASK FORCE.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the task force may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the task force considers appropriate. The task force may administer oaths before the task force.

(b) DELEGATION.—Any member or employee of the task force may, if authorized by the task force, take any action that the task force is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The task force may secure directly from any executive department or agency such information as may be necessary to enable the task force to carry out this subtitle, to the extent access to such information is permitted by law. On request of the Attorney General, the head of such a department or agency shall furnish such permitted information to the task force.

(d) MAIL.—The task force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 247. REPORT.

Not later than 1 year after the date on which the task force is fully constituted under section 243, the Attorney General shall submit a detailed report to the Congress on the findings and recommendations of the task force.

SEC. 248. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $500,000 to carry out the purposes of this subtitle.

SEC. 249. TERMINATION.

The task force shall cease to exist 30 days after the date on which the Attorney General's report is submitted under section 247. The Attorney General may extend the life of the task force for a period of not to exceed one year.

Subtitle F—Prevention of Sexual Assault

SEC. 251. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

The Victims of Crime Act of 1984 is amended by inserting after section 1404 (42 U.S.C. 10603) the following new section:

"SEC. 1405. RAPE PREVENTION AND EDUCATION PROGRAMS.

"(a) DEFINITION.—As used in this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by—

"(1) offenders who are not known to the victim; and

"(2) offenders known to the victim.

"(b) ESTABLISHMENT.—The Attorney General shall establish a program of grants to assist States in supporting rape prevention and education programs.

"(c) USE OF FUNDS.—A State may use a grant awarded under subsection (b) to support rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, including programs that—

"(1) conduct educational seminars;

"(2) operate hotlines;

"(3) conduct training programs for professionals;

"(4) prepare informational materials; and

"(5) undertake other efforts to increase awareness of the facts about, or help prevent, sexual assault.

"(d) APPLICATION.—To be eligible to receive a grant under subsection (b), a State shall submit an application at such time, in such manner, and containing such agreements, assurances, and information as the Attorney General determines to be necessary to carry out this section. At a minimum, the application shall include—

"(1) an assurance that the State will use at least 15 percent of the grant money made available under this section to support education programs targeted for junior high school and high school students; and

"(2) an assurance that the State will pay for the full cost of forensic medical examinations for victims of sexual assault, and will, if the State receives funds under section 1403, pay for the cost of the examinations with such funds.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for each of the 1992 through 1994 fiscal years.".

Subtitle G—Domestic Violence Prevention Act of 1991

SEC. 261. SHORT TITLE.

This subtitle may be cited as the "Domestic Violence Prevention Act of 1991".

SEC. 262. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

SEC. 263. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

SEC. 264. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit ad-

vertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.".

SEC. 265. STATE COMMISSIONS ON DOMESTIC VIOLENCE.

Section 303(a)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) provides assurances that, not later than 1 year after receipt of funds, the State shall have established a Commission on Domestic Violence, which will include as members, representatives of antidomestic violence organizations and whose expenses will be paid out of funds other than those dedicated to providing services in domestic violence cases, to examine issues including—

"(i) the use of mandatory arrest of accused offenders;

"(ii) the adoption of 'no-drop' prosecution policies;

"(iii) the use of mandatory requirements for presentencing investigations;

"(iv) the length of time taken to prosecute cases or reach plea agreements;

"(v) the use of plea agreements;

"(vi) the testifying by victims at post-conviction sentencing and release hearings;

"(vii) the consistency of sentencing practices;

"(viii) restitution of victims;

"(ix) the reporting practices of and significance to be accorded to prior convictions (both felonies and misdemeanors); and

"(x) such other matters as the Commission believes merit investigation.".

SEC. 266. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "shall make no less than $1,000,000 available for".

SEC. 267. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by striking ", and" and all that follows through "fiscal years".

SEC. 268. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No demonstration grant may be made under this section to an entity other than a State unless the entity provides 50 percent of the funding of the program or project funded by the grant.".

SEC. 269. SHELTER AND RELATED ASSISTANCE; RURAL AREAS.

Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended to read as follows:

"(g)(1) The Secretary shall ensure that, of the funds distributed under subsection (a) or (b)—

"(A) not less than 60 percent of the funds shall be distributed to entities for the purpose of providing shelter and related assistance to victims of family violence and their dependents, such as—

"(i) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(ii) transportation, legal assistance, referrals, and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(iii) comprehensive counseling about parenting, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services, employment training, social skills (including communication skills), home management, and assertiveness training; and

"(iv) day care services for children who are victims of family violence or the dependents of such victims; and

"(B) not less than 20 percent of the funds (which may include funds distributed under subparagraph (A)) shall be distributed to entities in rural areas.

"(2) As used in this subsection, the term 'rural area' means a territory of a State that is not within the outer boundary of any city or town that has a population of 20,000 or more, based on the latest decennial census of the United States.".

SEC. 270. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311(b) of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is amended by adding at the end thereof the following new subparagraph:

"(C) Training grants may be made under this section only to private nonprofit organizations that have experience in providing training and technical assistance to law enforcement personnel on a national or regional basis.".

SEC. 271. AUTHORIZATION OF APPROPRIATIONS.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 310. (a) There are authorized to be appropriated to carry out this title, $60,000,000 for each of fiscal years 1992, 1993, and 1994.

"(b) Of the sums appropriated under subsection (a) for any fiscal year, not less than 85 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) for any fiscal year, not more than 3 percent shall be used by the Secretary for making grants under section 314.".

SEC. 272. REPORT ON RECORDKEEPING.

Not later than 1 year after the date of enactment of this subtitle, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

PELL (AND THURMOND) AMENDMENT NO. 551

(Ordered to lie on the table.)

Mr. PELL (for himself and Mr. THURMOND) submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, add the following:

That (a) Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)) is amended—

(1) by striking out "or" at the end of paragraph (20);

(2) by striking out the period at the end of paragraph (21) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(22) is convicted of operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance arising in connection with a fatal traffic accident or traffic accident resulting in serious bodily injury to an innocent party.".

SYMMS AMENDMENT NOS. 552 THROUGH 554

(Ordered to lie on the table.)

Mr. SYMMS submitted three amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 552

"SEC. 01. MURDER.

"Subsection (b) of Section 801 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code 22–2404), is amended to read as follows:

"(b) Notwithstanding any other provision of law, a person convicted of first-degree murder shall be sentenced to life imprisonment, and the imposition or execution of such sentence shall not be suspended nor shall probation be granted nor shall the person be eligible for parole."

"SEC. 02. RAPE.

"Section 808 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code 22–2801), is amended by striking "any term of years" and inserting "any term of years which shall not be less than 20 years, and the imposition or execution of such sentence shall not be suspended nor shall probation be granted nor shall the person be eligible for parole prior to serving the minimum sentence."

"SEC. 03. KIDNAPPING.

"Section 812 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code 22–2101), is amended by striking "any term of years" and inserting "any term of years which shall not be less than 20 years, and the imposition or execution of such sentence shall not be suspended nor shall probation be granted nor shall the person be eligible for parole prior to serving the minimum sentence."

"SEC. 04. ASSAULT WITH A DANGEROUS WEAPON.

"Section 804 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code 22–502), is amended by striking "more" and inserting "less".".

AMENDMENT NO. 553

At the appropriate place, add the following:

"SEC. 01. MURDER.

"Subsection (b) of Section 801 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code 22–2404), is amended to read as follows:

"(b) Notwithstanding any other provision of law, a person convicted of first-degree murder shall be sentenced to life imprisonment, and the imposition of execution of such sentence shall not be suspended nor shall probation be granted nor shall the person be eligible for parole."

"SEC. 02. RAPE.

"Section 808 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code 22–2801), is amended by striking "any term of years" and inserting "any term of years which shall not be less than 20 years, and the imposition or execution of such sentence shall not be suspended nor shall probation be granted nor shall the person be eligible for parole prior to serving the minimum sentence."

"SEC. 03. KIDNAPPING.

"Section 812 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code 22–2101), is amended by striking "any term of years" and inserting "any term of years which shall not be less than 20 years, and the imposition or execution of such sentence shall not be suspended nor shall probation be granted nor shall the person be eligible for parole prior to serving the minimum sentence."

AMENDMENT NO. 554

At the appropriate place, add the following:

"(a) Chapter 85 of title 28, United States Code, is amended by adding the following new section between section 1341 and 1342:

"SEC. 1341A. PROHIBITION OF JUDICIAL RELEASE OF VIOLENT FELONS AND SERIOUS DRUG OFFENDERS

"Notwithstanding any other provision of law, no inferior court established by Congress shall have jurisdiction to issue any remedy, order, injunction, writ, judgment, or other judicial decree requiring the release of any person imprisoned for violation of a serious drug offense or a violent felony, as defined in Public Law 99–308, solely on the basis of the conditions in the institution in which such individual is incarcerated."

"(b) The table of sections for chapter 85 is amended by inserting between the item relating to section 1341 and the item relating to section 1342 the following new item: "1341A. Prohibition of judicial release of violent felons and serious drug offenders.".

GRASSLEY (AND HATCH) AMENDMENT NO. 555

(Ordered to lie on the table.)

Mr. GRASSLEY (for himself and Mr. HATCH) submitted an amendment intended to be proposed by them to the bill S. 1241, supra; as follows:

At the appropriate place.

SEC. 303. SENSE OF THE SENATE CONCERNING PROTECTION OF THE PRIVACY OF RAPE VICTIMS.

(a) FINDINGS AND DECLARATION.—The Congress finds and declares that—

(1) there is a need for a strong and clear Federal response to violence against women, particularly with respect to the crime of rape;

(2) rape is an abominable and repugnant crime, and one that is severely underreported to law enforcement authorities because of its stigmatizing nature;

(3) the victims of rape are often further victimized by a criminal justice system that is insensitive to the trauma caused by the crime and are increasingly victimized by news media that are insensitive to the victim's emotional and psychological needs;

(4) rape victim's need for privacy should be respected;

(5) rape victims need to be encouraged to come forward and report the crime of rape without fear of being revictimized through involuntary public disclosure of their identities;

(6) rape victims need a reasonable expectation that their physical safety will be protected against retaliation or harassment by an assailant;

(7) the news media should, in the exercise of their discretion, balance the public's interest in knowing facts reported by free news media against important privacy interests of a rape victim, and an absolutist view of the public interest leads to insensitivity to a victim's privacy interest; and

(8) the public's interest in knowing the identity of a rape victim is small compared with the interests of maintaining the privacy of rape victims and encouraging rape victims to report and assist in the prosecution of the crime of rape.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that news media, law enforcement officers, and other persons should exercise restraint and respect a rape victim's privacy by not disclosing the victim's identity to the general public or facilitating such disclosure without the consent of the victim.

SYMMS AMENDMENT NO. 556

(Ordered to lie on the table.)

Mr. SYMMS submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place, add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prohibited Persons Registration Act of 1991".

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) the term "prohibited person" means any person:

(A) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(B) who is a fugitive from justice;

(C) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(D) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(E) who, being an alien, is illegally or unlawfully in the United States;

(F) who has been discharged from the Armed Forces under dishonorable conditions; or

(G) who, having been a citizen of the United States, has renounced his citizenship;

(2) the term "prohibited persons information" means the following facts concerning a person who is a prohibited person, as defined by this section:

(A) name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of legal residence, and a brief description of the circumstances which cause such person to be a prohibited person;

(B) any other information that the Federal Bureau of Investigation or the National Crime Information Center determines may be useful in identifying prohibited persons;

(3) the term "National Crime Information Center" means the division of the Federal Bureau of Investigation that serves as a computerized information source on wanted criminals, persons named in arrest warrants, runaways, missing children, and stolen property for use by Federal, State, and local law enforcement authorities; and;

(4) the term "State" means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to establish a national system through which current, accurate information concerning persons who are prohibited persons can be obtained from a centralized source;

(2) to assist in the prevention of felonies committed with firearms; and

(3) to understand the problem of crime and mental illness in the United States by providing statistical data to the Department of Justice, the Congress, and other interested parties.

SEC. 4. REPORTING BY THE STATES.

(a) IN GENERAL.—The Department of Defense, the States, agencies of the Federal government, and any program or activity receiving Federal funds shall report prohibited persons information in accordance with regulations promulgated by the Attorney General.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for the reporting of prohibited persons information, including procedures for carrying out the purposes of this Act.

(2) The guidelines established under paragraph (1) shall require that—

(A) a reporting State, agency, or program or activity ensure that all prohibited persons information available to it and not available to the National Crime Information Center be made available to the National Crime Information Center; and

(B) the information provided to the National Crime Information Center under the provisions of this Act be made available to each licensed dealer (as defined by section 921 of title 18, United States Code) for the purpose of determining whether a person seeking to purchase a firearm is a prohibited person.

(c) ANNUAL REPORT.—The Attorney General shall publish an annual report containing a statistical summary of the prohibited persons information reported under this Act, together with whatever information he deems appropriate relating to the implementation of this Act.

HELMS AND THURMOND AMENDMENT NO. 557

(Ordered to lie on the table.)

Mr. HELMS (for himself and Mr. THURMOND) submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, add the following new section:

SEC. .

(1) Pursuant to its authority under section 994 of title 28, United States Code, the Sentencing Commission shall promulgate guidelines, or amend existing or proposed guidelines as follows:

(a) guideline 2G2.2 to provide a base offense level of not less than 15 and to provide at least a 5 level increase for offenders who have engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(b) guideline 2G2.4 to provide that such guideline shall apply only to offense conduct that involves the simple possession of materials proscribed by chapter 110 of title 18, United States Code and guideline 2G2.2 to provide that such guideline shall apply to offense conduct that involves receipt or trafficking (including, but not limited to transportation, distribution, or shipping);

(c) guideline 2G2.4 to provide a base offense level of not less than 13, and to provide at least a 2 level increase for possessing 10 or more books, magazine, periodicals, films, video tapes or other items containing a visual depiction involving the sexual exploitation of a minor;

(d) section 2G3.1 to provide a base offense level of not less than 10;

(2)(a) Notwithstanding any other provision of law, the Sentencing Commission shall promulgate the amendments mandated in subsection (1) by November 1, 1991, or within 30 days after enactment, whichever is later. The amendments to the guidelines promulgated under subsection (1) shall take effect November 1, 1991, or 30 days after enactment, and shall supercede any amendment to the contrary contained in the amendments to the sentencing guidelines submitted to the Congress by the Sentencing Commission on or about May 1, 1991.

(b) The provisions of section 944(x) of title 28, United States Code, shall not apply to the promulgation or amendment of guidelines under this section.

DOLE AMENDMENTS NOS. 558 AND 559

(Ordered to lie on the table.)

Mr. DOLE submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 558

On page 81A line 2 strike through page 84 line 5 and insert in lieu thereof the following:

SEC. 301. DAMAGE REMEDY FOR SEX OFFENSES.

(a) CAUSE OF ACTION.—Any person who violates a provision of chapter 109A of title 18, United States Code, and any person who violates the law of a State (as defined in section 513 of that title) through conduct proscribed by chapter 109A if one of the circumstances described in subsection (b) exists, shall be liable to the victim in an action for compensatory and punitive damages, whether or not the violation has been charged or prosecuted and whether or not a trial of the person for such violation results in conviction.

(b) CIRCUMSTANCES RELATING TO VIOLATIONS OF STATE LAW.—The circumstances referred to in subsection (a) are:

(1) that the violation was committed under color of any statute, ordinance, regulation, custom, or usage of any State; or

(2) that the defendant traveled in interstate or foreign commerce or caused or induced another to move in interstate or foreign commerce in committing the violation or in furtherance of the violation.

(c) LIMITATIONS.—Any action brought under subsection (a) shall be commenced within three years of the date of the offense, the date on which the victim attains the age of 18 years, or the date on which a judgment of conviction for the offense is entered, whichever is the latest.

(d) JURISDICTION.—An action under subsection (a) may be brought in any appropriate United States District Court without regard to the amount in controversy.

SEC. 302. SPECIAL DIVERSITY JURISDICTION FOR STATE TORT CLAIMS AGAINST SEX OFFENDERS.

The district courts shall have original jurisdiction, concurrent with the courts of the States, of all civil actions arising out of violations of the law of a State (as defined in section 513 of title 18, United States Code) through conduct proscribed by chapter 109A of that title, if the victim and the defendant or defendants have diversity of citizenship as set forth in section 1332(a) of title 28, United States Code. Jurisdiction under this section shall be without regard to the amount in controversy.

AMENDMENT NO. 559

On page 81A line 2 strike through page 84 line 5 and insert the following:

SEC. . SUITS IN FEDERAL COURT.

Chapter 85 of title 28, United States Code, is amended—

(a) by inserting at the end the following:

"§ 1367. Sexual Violence and Gender-Based Violence

"(a) The district courts shall have original jurisdiction of all civil actions where—

"(1) a claim for damages or other relief is premised on the commission of a Federal or State crime involving conduct proscribed by chapter 109A of title 18, United States Code, or a Federal or State crime of violence that was committed because of animosity or bias based on gender; and

"(2) in case the crime on which the claim is premised was not a Federal crime, the defendant traveled in interstate or foreign commerce or caused or induced another to move in interstate or foreign commerce in committing the crime or in furtherance of the crime.

"(b) For purposes of this section, 'State' has the meaning given in section 513 of title 18, United States Code, and 'crime of violence' has the meaning given in section 16 of title 18, United States Code."; and

(b) by inserting at the end of the chapter analysis the following:

"1367. Sexual Violence and Gender-Based Violence.".

DECONCINI AMENDMENT NO. 560

(Ordered to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

Notwithstanding Sec. . DISCLOSURE OF RECORDS OF ARRESTS BY CAMPUS POLICE, section 438(a)(4)(b)(ii) shall read "(ii) records of any law enforcement unit of any educational agency or institution.

SIMON AMENDMENT NO. 561

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to amendment No. 471 proposed by Mr. BIDEN to the bill S. 1241, supra, as follows:

Strike subtitle B of title V and insert the following:

Subtitle B—Education and Training For Judges And Court Personnel In Federal Courts

SEC. 521. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.

(a) STUDY.—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit courts are encouraged to conduct studies of the instances, if any, of gender bias in each circuit. The studies may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judicial officers in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) victims of violent crimes;

(5) sentencing;

(6) sentencing alternatives, facilities for incarceration, and the nature of supervision of probation and parole;

(7) appointments to committees of the courts;

(8) case management and court sponsored alternative dispute resolution programs;

(9) the selection, retention, promotion, and treatment of employees;

(10) appointment of arbitrators, experts, and special masters; and

(11) those aspects of the topics listed in section 512 of subtitle A that pertain to issues within the jurisdiction of the Federal courts.

(b) CLEARINGHOUSE.—The Federal Judicial Center is requested to act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials.

(c) MODEL PROGRAMS.—The Federal Judicial Center is requested to—

(1) include in the educational programs it presents and prepares, including the training programs for newly appointed judges, information on issues related to gender bias in the courts including such areas as are listed in subsection (a) along with such other topics as the Federal Judicial Center deems appropriate;

(2) prepare materials necessary to implement this subsection; and

(3) take into consideration the findings and recommendations of the studies conducted pursuant to subsection (a), and to consult with individuals with relevant expertise in gender bias issues as it prepares or revises such materials.

SEC. 522. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated for fiscal year 1992—

(1) $100,000 to the Federal Judicial Center to carry out the purposes of subsections (b) and (c) of section 521; and

(2) $300,000 to the Administrative Office of the United States Courts to carry out the purposes of this subtitle.

(b) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Administrative Office of the United States Courts shall allocate funds to Federal circuits under this subtitle that—

(1) undertake studies in their own circuits; or

(2) implement reforms recommended as a result of such studies in their own or other circuits, including education and training.

Funds shall be allocated to Federal circuits under this subtitle on a first come first serve basis in an amount not to exceed $50,000 on the first application. If within —— months after the date of enactment of this Act funds are still available, circuits that have received funds may reapply for additional funds, with not more than $200,000 going to any one circuit.

HATCH AMENDMENT NO. 562

Mr. HATCH proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

In 28 U.S.C. section 519, designate the current matter as subsection '(a)' and add the following:

(b) AWARD OF FEES.—

(1) CURRENT EMPLOYEES.—Upon the application of any current employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for reasonable attorney's fees incurred by that employee as a result of such investigation.

(2) FORMER EMPLOYEES.—Upon the application of any former employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for those reasonable attorney's fees incurred by the former employee as result of such investigation.

(3) EVALUATION OF AWARD.—The Attorney General may make an inquiry into the reasonableness of the sum requested. In making such inquiry the Attorney General shall consider:

(A) the sufficiency of the documentation accompanying the request;

(B) the need or justification for the underlying item;

(C) the reasonableness of the sum requested in light of the nature of the investigation; and

(D) current rates for legal services in the community in which the investigation took place.

PELL AMENDMENT NO. 563

Mr. PELL proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, add the following:

That (a) section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)) is amended—

(1) by striking out "or" at the end of paragraph (20);

(2) by striking out the period at the end of paragraph (21) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(22) is convicted of operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance arising in connection with a fatal traffic accident or traffic accident resulting in serious bodily injury to an innocent party.".

WOFFORD AMENDMENT NO. 564

Mr. WOFFORD proposed an amendment to the bill S. 1241, supra, as follows:

At the end of the bill, add the following:

TITLE —ENVIRONMENTAL COMPLIANCE

SEC. 01. ENVIRONMENTAL COMPLIANCE.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 33 the following new chapter:

"CHAPTER 34—ENVIRONMENTAL COMPLIANCE

"731. Environmental compliance audit.
"732. Definition.

§ 731. Environmental compliance audit

"(a) IN GENERAL.—A court of the United States—

"(1) shall, when sentencing an organization for an environmental offense that is a felony; and

"(2) may, when sentencing an organization for a misdemeanor environmental offense,

require that the organization pay for an environmental compliance audit.

"(b) APPOINTMENT OF INDEPENDENT EXPERT.—The court shall appoint an independent expert—

"(1) with no prior involvement in the management of the organization sentenced to conduct an environmental compliance audit under this section; and

"(2) who has demonstrated abilities to properly conduct such audits.

"(c) CONTENTS OF COMPLIANCE AUDIT.—(1) An environmental compliance audit shall—

"(A) identify all causes of and factors relating to the offense; and

"(B) recommend specific measures that should be taken to prevent a recurrence of those causes and factors and avoid potential environmental offenses.

"(2) An environmental compliance audit shall not recommend measures under paragraph (1)(B) that would require the violation of an environmental statute, regulation, or permit.

"(d) COURT-ORDERED IMPLEMENTATION OF COMPLIANCE AUDIT.—The court shall order the defendant to implement the appropriate recommendations of the environmental compliance audit.

"(e) ADDITIONAL STANDING TO RAISE FAILURE TO IMPLEMENT COMPLIANCE AUDIT.—(1) The prosecutor, auditor, any governmental agency, or any private individual may present evidence to the court that a defendant has failed to comply with the court order under subsection (d).

"(2) When evidence of failure to comply with the court order under subsection (d) is presented pursuant to paragraph (1), the court shall consider all relevant evidence and, if the court determines that the defendant has not fully complied with the court order, order appropriate sanctions.

"§ 732. Definition

"For the purposes of this chapter, the term 'environmental offense' means a criminal violation of—

"(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

"(2) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly known as the Clean Water Act);

"(3) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

"(4) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(5) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

"(6) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

"(7) title XIV of the Public Health Service Act (42 U.S.C. 300f et seq.) (commonly known as the Safe Drinking Water Act); and

"(8) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

(b) TECHNICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 33 the following new item:

MCCONNELL AMENDMENT NO. 565

Mr. MCCONNELL proposed an amendment to amendment No. 409 proposed by Mr. MCCONNELL to the bill S. 1241, supra, as follows:

On page 3 of the amendment, line 1, after the semicolon insert "and".

On page 3 of the amendment, line 5, strike "; and" and insert a period.

On page 3 of the amendment, strike lines 6 through 8.

On page 5 of the amendment, strike lines 3 through 5 and insert the following:

(a) IN GENERAL.—A State which reports the convictions of named individuals to the Federal Bureau of Investigation shall include all convictions for child abuse as defined by this title.

On page 5 of the amendment, line 6, strike "(1)".

On page 5 of the amendment, strike lines 10 through 23.

On page 5 of the amendment, strike beginning with line 24 through line 6 on page 6 and insert the following:

SEC. 06. COMPLIANCE AND FUNDING.

(a) STATE COMPLIANCE.—Each State shall have 3 years from the date of enactment of this title in which to implement the provisions of section 05.

(b) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with the provisions of subsection (a) 3 years after the date of enactment of this title shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with subsection (a).

METZENBAUM AMENDMENT NO. 566

Mr. METZENBAUM proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

Paragraph (b) of section 3621 of title 18, United States Code, is amended by inserting after subsection (5) the following:

"However, the Bureau may not consider the social or economic status of the prisoner in designating the place of the prisoner's imprisonment."

KOHL AMENDMENT NO. 567

Mr. KOHL proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

SEC. . DEPARTMENT OF JUSTICE COMMUNITY SUBSTANCE ABUSE PREVENTION ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1991".

(b) COMMUNITY PARTNERSHIPS.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and subtance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General and the appropriate State agency in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which group of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General and the appropriate State agency may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General and the appropriate State agency shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General, and the appropriate State agency, evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General, or the appropriate State agency, may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall submit an annual review to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.".

(c) AMENDMENT TO TABLE OF SECTIONS.—The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse.".

L. DOUGLAS ABRAM FEDERAL BUILDING

CHAFEE AMENDMENT NO. 568

Mr. DOLE (for Mr. CHAFEE) proposed an amendment to the bill (S. 276) to designate the Federal building located at 1520 Market Street in Saint Louis, MO as the "L. Douglas Abram Federal Building," as follows:

At the end of the bill insert a new section:

"SEC. . CONTINUATION OF AUTHORIZATION.

( ) Notwithstanding section 1001(a) of the Water Resources Development Act of 1986, the project for navigation, Providence, Rhode Island, authorized by section 1166(c) of the Water Resources Development Act of 1986, shall remain authorized to be carried out by the Secretary. The project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during this period, funds have been obligated for construction (including planning and design) of the project."

NATIONAL HIGHWAY SAFETY ADMINISTRATION AUTHORIZATION ACT

BRYAN AMENDMENT NO. 569

Mr. MITCHELL (for Mr. BRYAN) proposed an amendment to the bill (S. 1012) to authorize appropriations for the activities and programs of the National Highway Traffic Safety Administration, and for other purposes, as follows:

On page 51, lines 6 through 13, strike "All provisions" and everything that follows; and on page 51, line 14, strike "sums" and insert in lieu thereof "Sums".

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, FISCAL YEAR 1992

JOHNSTON AMENDMENT NOS. 570 AND 571

Mr. JOHNSTON proposed two amendments to the bill (H.R. 2427) making appropriations for energy and water development for the fiscal year ending September 30, 1992, and for other purposes, as follows:

AMENDMENT NO. 570

In lieu of the matter beginning on page 26, line 19 through line 8 on page 27 insert the following:

None of the funds in this Act shall be used to identify or delineate any land as a "water of the United States" under the Federal Manual for Identifying and Delineating Jurisdictional Wetlands that was adopted in January 1989 (1989 Manual) or any subsequent manual not adopted in accordance with the requirements for notice and public comment of the rule-making process of the Administrative Procedure Act.

In addition, regarding Corps of Engineers ongoing enforcement actions and permit application involving lands which the Corps of EPA has delineated as waters of the United States under the 1989 Manual, and which have not yet been completed on the date of enactment of this Act, the landowner or permit applicant shall have the option to elect a new delineation under the Corps 1987 Wetland Delineation Manual, or completion of the permit process or enforcement action based on the 1989 Manual delineation, unless the Corps of Engineers determines, after investigation and consultation with other appropriate parties, including the landowner or permit applicant, that the delineation would be substantially the same under either the 1987 or the 1989 Manual.

None of the funds in this Act shall be used to finalize or implement the proposed regulations to amend the fee structure for the Corps of Engineers regulatory program which were published in Federal Register, Vol. 55, No. 197, Thursday, October 11, 1990.

AMENDMENT NO. 571

On page 57, line 14, strike $403,600,000 and insert: "$567,600,000".

GLENN AMENDMENT NO. 572

Mr. GLENN proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 54, line 2, strike "$1,976,650,000" and insert "$1,941,650,000".

On page 54, line, 13, strike "$2,590,478,000" and insert "$2,507,478,000".

On page 56, line 14, strike "$3,640,372,000" and insert "$3,758,372,000".

VIOLENT CRIME CONTROL ACT

BIDEN AMENDMENTS NOS. 573 AND 574

(Ordered to lie on the table.)

Mr. BIDEN submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 573

At the end of title XI of the bill, as amended by amendment No. 380, as modified, add the following new section:

"SEC. 11 . DEFINITION OF 'FULL AND FAIR' ADJUDICATION.

"Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law."

AMENDMENT NO. 574

At the end of title XI of the bill, as amended by amendment No. 380, as modified, add the following new section:

"SEC. 11 . DEFINITION OF 'FULL AND FAIR' ADJUDICATION.

"An adjudication of a claim in state proceedings is full and fair in the meaning of sections 2254 or 2259 of title 28, United State Code (as amended by this Act), unless the adjudication was conducted in a manner inconsistent with the procedural requirements of federal law that are applicable to state proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented."

GARN AMENDMENT NO. 575

(Ordered to lie on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to amendment No. 546 proposed by Mr. WIRTH to the bill S. 1241, supra, as follows:

Insert at the end of the Wirth amendment No. 546, the following new section:

"SEC. . EXEMPTION TO PROTECT THE DEPOSIT INSURANCE FUNDS.

"Notwithstanding any other provision of this Act, the appropriate Federal banking agency is not required to publish or make publicly available any examination report, confidential agreement, or settlement agreement (or part thereof) if such agency determines that public disclosure would—

"(1) result in increased costs to the Bank Insurance Fund, the Savings Association Insurance Fund, or the Resolution Trust Corporation;

"(2) interfere with the examination process for insured depository institutions or result in the disclosure of information provided in confidence to the examiner or other agency employee;

"(3) hamper the enforcement of Federal civil or criminal laws relating to financial institutions;

"(4) be inconsistent with the purposes of the Right to Financial Privacy Act or violative of the Freedom of Information Act or otherwise be an unwarranted invasion of customer privacy; or

"(5) result in a waiver of the agency's attorney-client privilege."

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, FISCAL YEAR 1992

MOYNIHAN (AND D'AMATO) AMENDMENT NO. 576

(Ordered to lie on the table.)

Mr. D'AMATO (for Mr. MOYNIHAN, for himself and Mr. D'AMATO) submitted an amendment intended to be proposed by them to the bill H.R. 2427, supra, as follows:

On page 7, line 16, after "99-662", insert the following: ": *Provided further*, That with $225,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the reconnaissance study for Montauk Point, New York, to be derived by transfer of funds otherwise made available to conduct a study of Onondaga Lake, New York".

MOYNIHAN AND D'AMATO AMENDMENT NO. 577

(Ordered to lie on the table.)

Mr. D'AMATO (for Mr. MOYNIHAN, for himself and Mr. D'AMATO) submitted an amendment intended to be proposed by them to the bill H.R. 2427, supra, as follows:

On page 20, lines 1 through 3, strike "section 1135 of the Water Resources Development Act of 1986 as amended, to rehabilitate Onondaga Creek and Harbor" and insert "section 401 of the Great Lakes Critical Programs Act of 1990 (Public Law 101-596), to carry out restoration work on Onondaga Lake, New York, consistent with the purposes of section 401 of such Act".

KENNEDY AND KERRY AMENDMENT NO. 578

(Ordered to lie on the table.)

Mr. KENNEDY (for himself and Mr. KERRY) submitted an amendment intended to be proposed by them to the bill H.R. 2427, supra, as follows:

On page 8, line 17, before the period insert the following: ": *Provided further*, That with $250,000 of funds appropriated herein, the Secretary of the Army shall undertake a reconnaissance level study to assess the water resource needs of the Muddy River in Massachusetts".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that the hearing before the Committee on Energy and Natural Resources on S. 1018, on July 18, 1991, has been rescheduled to begin at 3 p.m., rather than at 2:30 p.m. as was originally announced.

The purpose of the hearing is to receive testimony on S. 1018, legislation to establish and measure the Nation's progress toward greater energy security.

The hearing will take place in room 366 of the Dirksen Senate Office Building.

For further information, please contact Leslie Black Cordes of the committee staff at 202/224-9607.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I would like to announce for my colleagues and the public that the hearing that had been scheduled before the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources regarding the Department of Energy's role in math and science education has been canceled.

The hearing was to have taken place on Monday, July 15, 1991, at 2 p.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets NW., Washington, DC.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on the independent contractors' review of the Small Business Administration's small business investment companies [SBIC] program—The Holloway Report. The hearing will take place on Tuesday, July 16, 1991, at 9:30 a.m., in room 428A of the Russell Senate Office Building. For further information, please call John Ball, staff director of the Small Business Committee, or Patricia Forbes, counsel to the committee at 224-5175.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on Oversight of Legislative and Executive Branch Lobbying Disclosure, on Tuesday, July 16, 1991, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 9, at 2 p.m., to receive a closed briefing on the situation in Yugoslavia.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Sub-

committee on Federal Services, Post Office, and Civil Service Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, July 9, 1991, beginning to receive the annual report of the Postmaster General of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on July 9, 1991, beginning at 2 p.m., in 485 Russell Senate Office Building, on S. 1350, Zuni River Watershed Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, July 9, beginning at 9:30 a.m., to conduct a hearing on the Water Pollution Prevention and Control Act (S. 1081) and related legislation to reauthorize the Clean Water Act with special emphasis on issues related to effluent guidelines, pretreatment and water quality standards.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Manpower and Personnel Subcommittee of the Committee on Armed Services be authorized to meet on Tuesday, July 9, 1991 at 8 a.m. in executive session, for markup of manpower and personnel programs for fiscal years 1992/1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS, SUSTAINABILITY AND SUPPORT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Readiness, Sustainability and Support Subcommittee of the Committee on Armed Services be authorized to meet on Tuesday, July 9, 1991 at 9 a.m. in executive session, for markup of readiness, sustainability and support programs for fiscal years 1992/1993, to include military construction programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Strategic Forces and Nuclear Deterrence Subcommittee of the Committee on Armed Services be authorized to meet on Tuesday, July 9, 1991 at 4:15 p.m. in executive session, for markup of strategic forces and nuclear deterrence programs for fiscal years 1992/1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PROJECTION FORCES AND REGIONAL DEFENSE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Projection Forces and Regional Defense Subcommittee of the Committee on Armed Services be authorized to meet on Tuesday, July 9, 1991 at 11 a.m. in executive session, for markup of projection forces and regional defense programs for fiscal years 1992/1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONVENTIONAL FORCES AND ALLIANCE DEFENSE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Conventional Forces and Alliance Defense Subcommittee of the Committee on Armed Services be authorized to meet on Tuesday, July 9, 1991 at 2:15 p.m. in Executive Session, for markup of conventional forces and alliance defense programs for fiscal years 1992/1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS, AND ALCOHOLISM

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Children, Family, Drugs and Alcoholism of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, July 9, 1991 at 9:30 a.m., for a hearing on Domestic Violence.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research and General Legislation be allowed to meet during the session of the Senate on Tuesday, July 9, 1991 at 9 a.m., to hold a hearing on the research title of the 1990 farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CONGRATULATIONS TO HELPING STUDENTS, INC.

• Mr. ROCKEFELLER. Mr. President, as the chairman of the National Commission on Children, as a Senator, and as a father, I am extremely concerned with the needs of this Nation's children. It is easy for us to forget that one in five American children lives in poverty. I rise before the Senate today to praise the efforts of a group of outstanding Roane County, WV, school employees who have started a volunteer program to help needy schoolchildren in their community.

This exceptional program, called Helping Students, Inc., started as an initiative to provide children, who otherwise would have received no gifts, with toys and clothing at Christmas. Employees of Roane County schools contributed to the children's fund instead of exchanging gifts among themselves. The program proved to be extremely successful. In 1988, they went one step further and established a general fund to aid students in poverty. The children's fund was supported by voluntary payroll deductions, in which participating employees allowed a small amount to be deducted from their monthly paychecks. The response to this proposal has been overwhelming. As of February 1991, Helping Students, Inc. has provided 177 items of clothing for 47 students, made possible by contributions to the fund which have exceeded $4,000. There are over 100 employees who participate in this program. They include teachers, busdrivers, custodians, et cetera. These caring individuals are not wealthy, but they give as much as they can.

I want to commend Helping Students, Inc. Too many of our children arrive at school inadequately dressed. They are cold and they are hungry. Obviously as a consequence, their school work suffers. While we are all probably moved by the deplorable thought of children going to school without the proper clothing, this group of Roane County school employees has actually done something to help. Their work deserves notice and praise. Their activism is a model we should all try to emulate.•

AN ESSAY BY LISA ANN KRIMMER, OF COLORADO

• Mr. BROWN. Mr. President, I would like to submit for the RECORD the following essay by Lisa Ann Krimmer, of Colorado, who is 1 of only 12 recipients nationwide of the 1991 Public Service Scholarship:

WHY I HAVE CHOSEN A PUBLIC SERVICE CAREER

My father has been a Federal Service employee for over twenty-nine years working for the Department of Army for eighteen years, the Department of Energy for two years, and the Department of Interior's Bureau of Land Management for the last nine years. Having grown up as the daughter of a public servant and living in a family where service to others is a primary way of life, I beleive it is my destiny to continue in my parent's footsteps. I have chosen Physical Therapy as my major field of study and upon receipt of my degree expect to join the public service ranks either at the Federal level with an agency like the Veteran's Administration, Office of the Surgeon General, or the Office of Public Health; or a state or local health organization. My first preference is at the Federal level.

During high school I had intended to become a professional ballet dancer, studying ballet and other forms of dance for over twelve years, however I began to recognize a need for physical and occupational therapy in the performing arts, and when my high school offered a medical careers course at the beginning of my senior year, I enrolled.

That course not only peaked my interest but showed I had talent and ability for the medical profession. My parents have encouraged me at every stage of my life and I have tried to reciprocate their support by working with them on numerous volunteer activities in which they were engaged. My Dad always said: "It is important to one's self-worth, as well as to the benefit of others, be they individuals, organizations, or the community, to give of yourself wherever and whenever possible." With that philosophy my parents, with my help and participation, organized, managed, and assisted in numerous fundraising and volunteer activities. This included such organizations as charities (Hadassah Hospital, Childrens Hospital, Muscular Dystrophy, the Salvation Army, etc.); community groups (Good Samaritan Shelter for the Homeless, Denver Area Food Bank, Denver Zoological Foundation, etc.); and performing arts groups (Colorado Ballet, Cleo Parker Robinson Dance Company, David Taylor Dance Company, Ballet Arts Foundation, etc.).

My participation included soliciting donations, setting up for sales, gleaning fields, preparing and serving meals to the homeless, and providing dance entertainment to hospital in-patients, and senior citizens homes. Independent of my parents, I gave free dance instruction to underpriviledged children, taught children swimming lessons, helped foreign students at my high school adjust to our way of life in the United States and aided them with their studies, and worked with younger and foreign dance students in developing their dancing skills.

As a licensed Physical Therapist I will offer my services to those less fortunate and who cannot pay for therapy. Additionally, as a public servant I will be able to reach a larger segment of the public, be aware of national and world trends and developments in physical therapy, and thereby provide better care and service to everyone. I also plan to actively participate in and promote national health care and become a factor in improving and developing better health care programs.

My goal is not to become a "get rich quick" health professional, rather to do as my parents in living a comfortable life without stepping over others to achieve my goal. It is a good feeling to give of one's time and abilities to work for and help others. A career in public service will give me that opportunity while making my community, our country, and the world a better place in which to live.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Dan Berkovitz, a member of the staff of Senator BURDICK, to participate in a program in Indonesia, sponsored by the Republic of Indonesia and the United States-Asia Institute, from August 16–31, 1991.

The committee has determined that participation by Mr. Berkovitz in the program in Indonesia, at the expense of the Indonesian Government and the United States-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Rob Hall, a member of the staff of Senator NUNN, to participate in a program in Germany and Denmark, sponsored by the United States Department of Labor and the German Marshall Fund, from June 30 to July 7, 1991.

The committee has determined that participation by Mr. Hall in the program in Germany and Denmark, at the expense of the German Marshall Fund, is in the interest of the Senate and the United States.●

THE 1991 CALL TO CONSCIENCE

● Mr. BIDEN. Mr. President, I deeply regret that my colleagues and I must mark another year with Call to Conscience statements. While tremendous changes have occurred over the past 2 years in the Soviet Union and Eastern Europe, they have unfortunately not been enough to end the need for the Senate's annual Call to Conscience—the need to insist that the Soviet Union allow Soviet Jews, and all oppressed people, to emigrate freely.

Although the central Soviet Government has passed a liberalized emigration law, it remains to be seen how vigorously it will be enforced and what loopholes it might contain. I worry particularly about how some of the Kremlin's old, tired excuses to prevent emigration will be used in the future.

Still today Soviet Jews are being told they cannot leave the Soviet Union because of secrecy concerns. For example, Valery Brodsky, an engineer at the Hydrological Research Institute, has been denied permission to leave because he had a security clearance, although Valery has not had access to classified material for over 5 years. When his application was refused last year, Valery was told permission would not be forthcoming until 1995.

To make even more difficult the Brodsky family's situation, they live in Kiev, near the site of the Chernobyl nuclear disaster. According to relatives in the United States, the two Brodsky children, Boris, age 22, and Tatyiana, age 8, have both been ill as a result of the Chernobyl accident. Perhaps just as disturbing, the family has received anti-Semitic threats. The situation is so desperate that Irina Brodsky, Valery's wife, has considered leaving with her family even if Valery cannot.

Mr. President, I call on President Gorbachev to allow the Brodskys, and other families like them, to leave the Soviet Union. While the world appreciates the liberalization that has taken place under Gorbachev's leadership, it will never be considered adequate while oppression of Jews continues and free emigration is denied.●

TRIBUTE TO GERALD J. HOLE

● Mr. COATS. Mr. President, it is with great pleasure that I rise today to recognize Mr. Gerald J. Hole for his years of service to the people of the State of Indiana and the Indiana State Police. Mr. Hole has been a leading warrior in the fight against drug abuse for most of his 27-year career. Mr. Hole retired at the rank of captain and the position of commander of special investigations for the Indiana State Police on June 11, 1991. Mr. Hole's years of leadership and service in fighting drugs has made the people of Indiana safer from the ravages of drug abuse.

Although it is difficult to summarize an extraordinary career, I would like to mention two important achievements. First, on July 20, 1981, Mr. Hole received a bronze star from the Indiana State Police for meritorious service. Second, Mr. Hole led two different undercover investigations in the late 1970's and early 1980's that recovered approximately $5.5 million worth of stolen property.

On behalf of myself and the people of the State of Indiana, I would like to commend Mr. Hole for his distinguished years of service. I would also like to offer him my best wishes for continued success in civilian life.●

SMALL BUSINESS AND HEALTH CARE COSTS

● Mr. BUMPERS. Mr. President, the small business community is perplexed and frightened by the cost of health care and the attendant cost of health insurance for their employees. Many small businesses in the past have not carried employee health insurance, and it was not a particular barrier to hiring excellent employees or to retaining them.

But, times have changed and an almost insoluble situation has arisen for employer and employees with the skyrocketing of health care costs. I ask that the following letter from Jeremy Thornton of Mena, AR, be printed in the CONGRESSIONAL RECORD because he concisely and clearly has captured the no-win situation of many small businessmen in the Nation today.

The letter follows:

MENA TITLE CO.,
Mena, AR, June 21, 1991.

Hon. DALE BUMPERS,
Senate Office Building, Washington, DC.

DEAR SENATOR BUMPERS: I am a small businessman. My wife and I own and operate a land title business here in Mena. We try to do our best to provide a reliable, dependable and efficient service to the general public, the banking industry, realtors, and attorneys.

We have never had much turnover in employment, but recently illness took one of our key employees, and another decided to quit; in both cases, the fact that we do not have an employee health insurance plan was a problem. The employee who had to quit developed diabetes and the other has compared our "total package" and made the decision that another place of employment would be the best for her.

We feel that our business is becoming less able to compete for labor with larger firms. I have three (3) employees plus my wife and I for a total labor force of five (5). We have checked with a few health insurance companies and we come up with one big learning curve. To consider and make an evaluation of just one (1) health package is to realize that:

1. There is no standardization in basic coverage and it becomes a very complex and consuming thing to make the best decision for our basic health insurance needs. The worst part is that if you get on a program, they can change the rules and coverage anytime after the initial contract period. If they do this, and it is going to happen, we have two (2) choices: take what is offered on renewal, or get back into the competitive evaluation of other insurance companies plans, which is a drain on business time. So, without standardization in health insurance plan and some kind of stability of plan, it is tough for a small-time business to make the decision to fund a plan. We want to provide health insurance to our employees, but if we do, we want a "standardized medical package" and stability in costs and coverage before we agree to put a health insurance program in place. With the current system of health insurance, we do not think we can at anytime soon offer a health plan to our employees. That is a shame, for we truly think we need one.

2. The cost of a health program is more than we can sponsor (and even if we could, the extra time a health program would cost to administer is an additional burden). But if everyone has to offer health insurance, then my market would accept the additional costs.

It seems that small businesses (even though insurance companies say you can get into "pools of other small businesses") do not get the price breaks that large accounts (comparing this with a firm of, say, 500 employees). So sheer numbers put our business in a position of higher costs, yet I feel that our employees have every right to the basic need of health insurance as those in a firm whose employees number 500.

Up until recently, I did not think that the health insurance industry was out of hand. But it is. Eight years ago, my family took a health insurance policy with TIME Health Insurance Co. with a $1,000 deductible for about $1,000 premium per year. Now it has grown in cost to $2,500 per year. The fact that we have never had a claim against the policy is not that important, even though over 8 years there has been a 250% increase in cost. But after awhile, you get "locked in" on a program because at renewal time, other health insurance companies offer very little in the way of price competition for similar health plans (if there exists such a class of creatures!).

Up until recently, I did not think that a national health insurance plan was necessary. But it is. The market does not seem to control its costs though competitive forces. There are many health insurance companies; there are many hospitals; there are many doctors; there is no shortage of medical health care producers of products and services. There is no shortage of patients. But basic health care in the form of health insurance has become a problem for Middle Americans who are just small-time businesses and who would like to provide health plans but can't.

Doctors have, absolutely, the strongest trade union that has ever existed in America. Even family physicians make at least, if not more than, $150,000 per year in this economically depressed part of Arkansas. The disparity in how much physicians make in comparison to other labor inputs into our economic society is relative. What they are able to get for their services is a function of market forces. Apparently, the market forces offer no competitive alternative, and therefore how much doctors make, relative to others, has become a little of out whack. We know that doctors devote a lot of time to acquire their skills, and that there is a lot of stress in their occupation. But if you think about it, everyone who is working in America now has stress. Is your job less stressful than that of a doctor? You may not face the same stress situations but the level of stress is just as intense, I would think. Insurance companies feel they have to have "different features" to market their plans; that is so much horsefeathers and puffery. What they need is standardization of plan, then they might be able to evaluate risks more efficiently and improve their profits. By avoiding the competition within a framework of a standard health plan, they can point their fingers at others as being the source of the health care problems—at lawyers for trying to represent their clients, at doctors for charging too much, at the inefficiency of medical providers, at the government for increasing their costs by unnessary regulation. Health care providers of services and products are, for some reason, rarely scrutinized, except for hospitals. The providers of health care products get away with charging $120 for a $15 foam-mat (priced at Walmart) used on patient hospital beds. There isn't very much sanity in this kind of acquisition of supplies and materials.

These things lead me to think that the market forces of demand, supply and price are not operating very well in this marketplace. It is time for a national health plan, and I don't mean one which plays ball with the lobbying interests of doctors, insurance companies or health providers but one that will put the people of our Country on an even competitive level not only within our own boundaries but also with our major Western Nations.

It is time for you guys to do something for the people. I want to thank you for you taking the time to read this, and I hope you will consider it carefully.

Regards,

JEREMY D. THORTON.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the most recent budget scorekeeping report for fiscal year 1991, prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $0.4 billion in budget authority, and under the budget resolution by $0.4 billion in outlays. Current level is $1 million below the revenue target in 1991 and $6 million below the revenue target over the 5 years, 1991–95.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $326.6 billion, $0.4 billion below the maximum deficit amount for 1991 of $327.0 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 8, 1991.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1991 and is current through June 28, 1991. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Budget Enforcement Act of 1990 (Title XIII of Public Law 101–508). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of Senate Concurrent Resolution 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated June 24, 1991, there has been no action that affects the current level of spending and revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS., AS OF JUNE 28, 1991

[In billions of dollars]

	Revised on-budget aggregates [1]	Current level [2]	Current level +/− aggregates
On-budget:			
Budget authority	1,189.2	1,188.8	−0.4
Outlays	1,132.4	1,132.0	−.4
Revenues:			
1991	805.4	805.4	(3)
1991–95	4,690.3	4,690.3	(3)
Maximum deficit amount	327.0	326.6	−.4
Direct loan obligation	20.9	20.6	−.3
Guaranteed loan commitments	107.2	106.9	−.3
Debt subject to limit	4,145.0	3,442.0	−703.0
Off-budget:			
Social Security outlays:			
1991	234.2	234.2	
1991–95	1,284.4	1,284.4	
Social Security revenues:			
1991	303.1	303.1	
1991–95	1,736.3	1,736.3	

[1] The revised budget aggregates were made by the Senate Budget Committee staff in accordance with section 13112(f) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508).

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. In accordance with section 606(d)(2) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508) and in consultation with the Budget Committee, current level excludes $45.3 billion in budget authority and $34.6 billion in outlays for designated emergencies including Operation Desert Shield/Desert Storm; $0.1 billion in budget authority and $0.2 billion in outlays for debt forgiveness for Egypt and Poland; and $0.2 billion in budget authority and outlays for Internal Revenue Service funding above the June 1990 baseline level. Current level outlays include a $1.1 billion savings for the Bank Insurance Fund that the Committee attributes to the Omnibus Budget Reconciliation Act (Public Law 101–508), and revenues include the Office of Management and Budget's estimate of $3.0 billion for the Internal Revenue Service provision in the Treasury-Postal Service Appropriations Bill (Public Law 101–509). The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50,000,000.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF CLOSING OF BUSINESS JUNE 28, 1991

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			834,910
Permanent appropriations	725,105	633,016	
Other legislation	664,057	676,371	
Offsetting receipts	−210,616	−210,616	
Total enacted in previous sessions	1,178,546	1,098,770	834,910
II. Enacted this session:			
Extending IRS Deadline for Desert Storm troops (H.R. 4, Public Law 102–2)			−1
Veterans' education, employment and training amendments (H.R. 180, Public Law 102–16)	2	2	
Dire emergency supplemental appropriations for 1991 (H.R. 1281, Public Law 102–27)	3,823	1,401	
Higher education technical amendments (H.R. 1285, Public Law 102–26)	3	3	
OMB domestic discretionary sequester	−2	−1	
Emergency supplemental for humanitarian assistance (H.R. 2251, Public Law 102–55)	[1]		
Total enacted this session	3,826	1,405	−1
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in revised on-budget aggregates	−8,572	539	
VI. Economic and technical assumption used by committee for budget enforcement act estimates	15,000	31,300	−29,500
On-budget current level	1,188,799	1,132,014	805,409
Revised on-budget aggregates	1,189,215	1,132,396	805,410
Amount remaining:			
Over budget resolution			
Under budget resolution	416	382	1

[1] Less than $500,000.

Note.—Numbers may not add due to rounding.•

UNANIMOUS-CONSENT AGREEMENT ON MOTION TO INVOKE CLOTURE ON S. 1241

Mr. JOHNSTON. Mr. President, on behalf of the majority leader, I ask unanimous consent that the vote on the motion to invoke cloture on S. 1241, the crime bill, occur at 2 p.m., Wednesday, July 10, with the mandatory live quorum having been waived.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. JOHNSTON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m.; that following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein; that during morning business, Senator LIEBERMAN be recognized for up to 5 minutes, and that Senator BRADLEY be recognized for up to 30 minutes; that at 10 a.m., the Senate then resume consideration of H.R. 2427, the energy and water appropriations bill.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

RECESS UNTIL TOMORROW AT 9:15 A.M.

Mr. JOHNSTON. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as under the previous order until 9:15 a.m., Wednesday, July 10.

There being no objection, the Senate, at 11:27 p.m., recessed until Wednesday, July 10, 1991, at 9:15 a.m.

EXTENSIONS OF REMARKS

SADDAM HUSSEIN'S THREATS OF TERRORIST REPRISALS GO UNFULFILLED

HON. WM. S. BROOMFIELD
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. BROOMFIELD. Mr. Speaker, I want to commend the administration for effectively dealing with the threat of Iraqi-backed terrorism during the recent gulf crisis. Although Saddam Hussein's terrorist brigades may strike against the United States and our coalition partners in the future, the recent implementation of President Bush's counterterrorism policy has shown that America is ready and able to deal with the threat of Iraqi-sponsored terrorism.

Iraq and its allies attempted a number of terrorist operations against the United States during the conflict, a few of which succeeded. Most attacks, however, were countered. Those that were carried out were the work of local extremists, not terrorism's heavy hitters. The highly lethal attacks that have been the hallmark of the professional Middle Eastern terrorist groups did not occur.

Our government undertook a number of measures that proved to be highly effective against Saddam Hussein's promises to launch a major terrorist campaign. In response to Iraqi threats, the administration made it clear that the United States would hold Saddam Hussein personally responsible for acts of terrorism directed against the United States or its coalition partners.

United States and allied governments expelled over 200 Iraqi diplomats from their countries and disrupted Iraq's command and control systems in order to limit its ability to coordinate terrorist attacks. The United States also applied significant diplomatic pressure to state sponsors of terrorism, which harbor and train terrorist groups. U.S. diplomatic posts overseas tightened security, employed tough countermeasures, and reduced staffs. Police and intelligence information exchange with allied governments was augmented, and there was unprecedented cooperation between Western counterterrorism agencies. Overall, our counterterrorism efforts during the gulf crisis were well conceived and managed. As a result, the United States is better prepared to deal with international terrorism in the future.

I commend to my colleagues the following article by noted terrorism expert Neil C. Livingstone concerning Iraq's terrorist threat and our Government's commendable efforts to counter it.

[From Sea Power, April 1991]

WHERE WERE IRAQ'S TERRORISTS?

(By Neil C. Livingstone)

The caller to the Smithsonian Institution in Washington sounded ominous. "This is Yasir Arafat," he said. "And I'm going to blow up the National Zoo."

Welcome to the "phony war" that has been played out in numerous cities across the United States, and elsewhere around the world, since the onset of Operation Desert Storm. Each day brings new bomb threats and terrorist scares. Someone has just seen Abu Nidal at a popular shopping mall. There is a suspicious box in the lobby of a federal building. "Iraqi agents" have been spotted casing the Alaskan pipeline. A caller identifying himself as "Saddam Hussein" has just threatened to "burn down" Germantown, Md. The mayor of Detroit has declared a state of emergency over the "terrorist threat" and called on the governor to activate the National Guard.

Despite the flood of threats and "suspicious-person" sightings, there were no significant terrorist incidents in or against the United States in the nearly seven months between the Iraqi invasion of Kuwait last August and the onset of the ground campaign on 23 February. Although terrorist incidents were up sharply around the world—numbering over 150 between 16 January and 23 February—only one was directly linked to Iraq. In that incident, a bomb being transported by two Iraqis to an American target in the Philippines detonated prematurely, killing one of them.

All of the other incidents appear to be "sympathetic" actions by terrorist groups indigenous to the countries where the incidents occurred. Some were designed to show solidarity with Iraqi, but most apparently were efforts to grab headlines and to exploit the unusual amount of attention being devoted to any terrorist incident. The Irish Republican Army (IRA) attacks in mid-February on the British prime minister's residence, Number 10 Downing Street, and on two London train stations, according to British investigators, probably had taken months to plan, and were simply part of the ongoing war in Northern Ireland.

The absence of Iraqi-backed terrorist violence was in direct contrast to the predictions of many observers, who believed that the outbreak of war in the Gulf would be accompanied by the opening of a so-called terrorist "second front" by Saddam Hussein. The apprehension over potential terrorist attacks hit the airline industry particularly hard, in both the United States and Western Europe. Tourism dropped significantly. One London hotel reported only four rooms occupied shortly before the commencement of the ground war. Some travel agencies said business was off as much as 75 percent. In February, a U.S. jetliner bound for London reportedly departed with only one passenger in the tourist cabin.

By the time the ground war began, the State Department already had issued war-related travel advisories for Indonesia, Peru, Malaysia, the Philippines, Thailand, Tanzania, Saudi Arabia, Jordan, Qatar, Nigeria, India, Israel, Sudan, Tunisia, Syria, Mauritania, Bangladesh, Djibouti, Yemen, Morocco, and the United Arab Emirates and had recommended that all non-essential travel to these countries be deferred. Many American companies took the advice to heart and imposed major restrictions on corporate travel. One result was a boom in alternative means of "face-to-face" communication, such as teleconferencing. Teleconference companies were unable to keep up with demand.

Although it certainly made sense to avoid travel to countries in the theater of conflict and to Islamic nations where there was a high possibility of anti-American demonstrations or terrorist attacks, the drastic falloff of travel within the comtinental United States and to other areas of the world like Latin America and the Far East certainly was not warranted. In February, to stimulate domestic travel, First Lady Barbara Bush took a highly-publicized commercial flight to Indianapolis. Nevertheless, it will take a long time for the travel and tourism industries to recover.

On 23 February, as coalition forces drove into Kuwait and Iraq, Saddam Hussein once more called on Arabs around the world to strike at U.S. and other coalition targets. The U.S. State Department issued a new worldwide alert to all U.S. missions and military bases advising them to be prepared for terrorist attacks. But in the first days of the land offensive, there were only scattered reports of violence, and none of major significance.

Even if Iraq finally were able to launch the long-rumored "second front," the big question remains: Where were Saddam Hussein's terrorist legions in the first six weeks of the war? There are several possible answers. It may be that he held them in reserve, waiting to unleash them only after his Scud missiles were gone, when he had no other means of projecting power beyond his own borders. By the same token, it may be that the terrorist threat was overestimated from the beginning, and that many of the groups under Baghdad's control or that supported Saddam Hussein possessed only marginal capabilities, or willingness, to carry out attacks on Iraq's behalf.

The most likely answer, though, is that the steps taken by the United States and its allies to thwart and preempt terrorist operations were enormously successful. Beginning with an unprecedently high level of intelligence and police cooperation between coalition partners, the deliberately underpublicized counterterrorist campaign also included the tightening of visa and border controls, "hardening" many potential targets and removing others from the "line of fire," the expulsion of Iraqi diplomats and other suspected troublemakers, and the disruption of terrorist communications, travel plans, and financial sources. The long delay from the onset of the crisis in August to the actual commencement of hostilities in mid-January gave U.S. and coalition officials time to plan and prepare for the worst.

The fact that two of the most prominent state sponsors of terrorism are hostile to Iraq also may have helped: Syria is a coalition partner and Iran is officially neutral. Even Libyan dictator Muammar Qaddafi, another prominent state sponsor of terrorism, has remained on the sidelines. He is said to resent Saddam Hussein's personal prominence as well as his bid to seize the leadership of radical forces in the Arab world.

In the final analysis, the history of things that don't happen is often the most difficult

history to write. It's impossible to prove a negative. But this much is certain: Saddam Hussein missed by many miles the opportunity to use terrorism effectively to coerce and intimidate the coalition partners and to influence their policies. The threat of Iraqi-sponsored terrorism created a pervasive global climate of fear, but perhaps that was just the thing needed to convince the United States and its normally complacent allies to put aside past differences and to implement the kinds of security precautions and procedures necessary to reduce their exposure to terrorist attacks.

The end of the war, however, as Pentagon and State Department officials have long warned, may represent just the beginning of the real terrorist threat. The Gulf War has re-energized every radical and terrorist organization in the Middle East and may well yet spawn a generation of terrorist attacks designed to "avenge" Saddam Hussein and those, like the Palestinians, who looked to him for deliverance. That is why one of the peace conditions imposed on Iraq at the cessation of hostilities must be not only the expulsion of all terrorists from Iraq but also meaningful (i.e., verifiable) assurances by the government in Baghdad that it will not aid and abet terrorists in the future or permit them to operate from Iraqi soil.

The Palestinians remain the wild card. There were, at the beginning of the war, more than 120,000 Palestinians in Kuwait, many of whom collaborated with that nation's Iraqi occupiers. As a result, the exiled Kuwaiti government has indicated that many if not most of them will be expelled once the legitimate government is restored and fully functioning. Many Israelis, moreover, will long remember Palestinians on the West Bank cheering Iraqi Scud missiles as they streaked toward civilian targets in Israel. In view of the alliance by Yasir Arafat and the Palestine Liberation Organization (PLO) with Saddam Hussein, and their support for his crimes against Kuwait, it would be unthinkable for the PLO, as it presently is constituted, to be granted any significant role in shaping the postwar Middle East. Only if Arafat and the other collaborators are removed can the PLO's claim to speak for the Palestinian people be given any real recognition. Until then, the PLO and its Palestinian supporters are likely to end up as two of the biggest losers in the conflict.

OSSINING EXTENDS WELL EARNED HONOR TO PERSIAN GULF VETERANS

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mrs. LOWEY of New York. Mr. Speaker, I rise today to join the people of Ossining, NY, in paying tribute to the 30 men and women who left that community to serve their Nation in the Persian Gulf. As was true with the tens of thousands of other Americans who joined our allies in freeing Kuwait, these individuals put their personal lives on hold to respond to the call to service of their Nation.

As the Ossining community joins to pay tribute to these individuals who literally put their lives on the line, it is with a sense of joy in their safe return and of sadness for the lives of the men and women whose lives were lost while serving with them in defense of freedom. Above all, however, there is an immense sense of pride in the unselfish dedication which all who served in Operations Desert Shield and Desert Storm have exhibited.

Observances of our own Independence Day have special significance this year. We have been reminded once again of the sacrifices which have been demanded of the people of this great Nation of ours over the last two centuries to secure freedom and to stand up to aggression. These men and women of Ossining, after their service, I am sure understand better than most how important our liberties and freedoms are. Each of us owes them a special debt of gratitude, just as we do to the thousands of veterans who have stood up for freedom in previous conflicts.

It is a pleasure, as their Congresswoman, to say thank you to these 30 individuals who were there when our Nation needed them.

WILMA SABALA: A "WOMAN OF ENTERPRISE"

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize today one of my constituents, Wilma Sabala, who recently was featured in the Miami Herald as the winner of the "Woman of Enterprise Award."

The 50-year-old Avon saleswoman accepted the award last month in New York City. The award is sponsored by Avon Products, Inc. and the U.S. Small Business Administration. It is given annually to six women, including one Avon employee, who excel in their fields.

Ms. Sabala's story is another example of an immigrant who achieved her dream through hard work and determination. In this case, Ms. Sabala's dream was to open a flower shop in Miami Beach. In 1990, she opened her shop, W. Sabala, Inc., on Miami Beach's famous Lincoln Road.

Ms. Sabala, a native of the small Central American country Belize, came to this country in 1970. She had a degree in home economics and community development from Queen Elizabeth College at the University of London and attended the Inter-American Institute for Agricultural Sciences in Costa Rica. She went to work as a companion to the wife of a Miami doctor, and also baby-sat and cleaned houses, after not finding jobs in one of her specialties.

But she had bigger goals, which she pursued as an Avon saleswoman. Initially, she worked as a saleswoman for two Miami Beach businesses which permitted her to stock Avon products as a sideline in their office. Eventually she was told to discontinue selling Avon. Finally she "decided to buy the store and turn it into a flower shop."

The year she started selling Avon products out of her flower shop, her sales reached $300,000, which was double what she sold in 1989. It was the second largest volume increase among Avon representatives nationwide, and it caught the attention of the awards committee. After being flown to Las Vegas to interview for the award, she filled out the application at the last minute as part of her 50th birthday resolution to answer all her mail. Ms. Sabala was chosen from among 600,000 applicants.

"Wilma is an incredible lady. She has determination unmatched by anyone I've seen. It is spiritual and motivational. She doesn't always think of Wilma's success, but of those around her. She's overcome challenges in her life that would stifle others," exults Marie Rodriguez, the Avon division sales manager for south Florida.

I am pleased to take this opportunity to pay tribute to Ms. Sabala. Her life is an inspiration to those who believe that the American dream is still possible in this great country. It is like the stories of the many successful immigrants who have helped make America and south Florida what it is today.

A SALUTE TO VOLUNTARISM

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. MURTHA. Mr. Speaker, I would like to salute Mrs. Francis Denton, an outstanding volunteer at the National Naval Medical Center in Bethesda, MD, who has given unselfishly of herself as a faithful Red Cross volunteer for the past 29 years. Mrs. Denton began her volunteer career as a Gray Lady in the early 1940's and at the age of 82 remains a dedicated, enthusiastic part of the Red Cross family. That's over 50 years of volunteer service.

Mrs. Denton is a shining example of what voluntarism is all about. She arrives at the medical center at 7 a.m. and sits at the busy information desk always willing to assist anyone who makes an inquiry. She is extremely gracious and always does a good job.

Mr. Speaker, Mrs. Denton was there to greet me when I visited the National Naval Medical Center recently. I went there to check on the quality of health care provided by the medical center. I would like to report that I have noticed a positive improvement in the service provided for patients over the last few years. The Navy must be complimented on these improvements in medical care at Bethesda. All the patients I spoke with were pleased with the quality of the care they were provided.

One of the keys of this improvement is the work of volunteers like Mrs. Denton. It is individuals like her that are the backbone of the military medical support system, and I am honored to bring her work to the attention of the House of Representatives.

CIVIL STRIFE CONTINUES

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. MICHEL. Mr. Speaker, although Nicaragua is no longer on the front pages of our newspapers, the fate of the Nicaraguan peo-

ple still deserves our attention. This is why I want to bring to the attention of my colleagues a letter I recently received from Alfredo Cesar, President of the National Assembly of Nicaragua.

In his correspondence, President Cesar tells of threats and terrorist acts directed toward the Representatives of the National Assembly, a body very much like our own, responsible for legislating and ensuring the legal rights of each of Nicaragua's citizens. This terrorism includes "explosions in homes and political party offices, and even violence toward public buildings, private radio stations, and city halls in diverse parts of the country." President Cesar then writes, "The terrorist acts are being carried out by organizations and individuals clearly identified with the opposition party, FSLN."

Mr. Speaker, we have been intently following events in Yugoslavia which have led it to the brink of civil war. It is important for us to be aware that in the case of Nicaragua, the end of the civil war and a cease-fire has not provided a cessation of hostilities or violence against innocents. The Sandinistas are not only trying to rule from below, they are trying to ruin from below.

At this point in the RECORD, I wish to insert the letter sent to me by Alfredo Cesar, President of the National Assembly of Nicaragua, dated June 21, 1991.

[Translation]

NATIONAL ASSEMBLY,
Managua, 21 June 1991.

HON. ROBERT H. MICHEL,
Minority Leader, U.S. House of Representatives

DEAR CONGRESSMAN MICHEL: I address this letter to you in order to bring to your attention to the violent threats and terrorist acts against Representatives to the National Assembly of the majority coalition, the National Opposition Union [UNO]. The terrorist acts are being carried out by organizations and individuals clearly identified with the opposition party, FSLN. The UNO representatives have become targets because they are exercising their Constitutional and legal rights to legislate as members of the legislative body of Nicaragua.

The act of legislating, which is what representatives of the National Assembly do, should not be the object of violent aggression. Such acts are an obvious violation of parliamentary rights. These terrorist acts have extended to include explosions in homes and political party offices, and even violence toward public buildings, private radio stations, and city halls in diverse parts of the country.

I bid you to transmit this message to the other Members of the United States Congress.

We appreciate your attention to the present situation. I take this opportunity to renew the assurances of my highest consideration and esteem.

Sincerely,

ALFREDO CESAR A.,
President,
National Assembly of Nicaragua.

A TRIBUTE TO ROBERT D. VESSEY

HON. CHARLES LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. LUKEN. Mr. Speaker, I rise today to pay tribute to a gentleman who has made service to others his primary goal. I speak on the occasion of the retirement on July 19, 1991, of Robert D. Vessey after 33 years of service to the American Red Cross.

For the past 12 years, Robert Vessey has served as director of disaster services of the American National Red Cross.

In fulfillment of those duties, Mr. Vessey has provided continuing support and counsel to officials in the First Congressional District of Ohio on a wide range of disaster matters. His expertise was invaluable during the June 2, 1990, tornadoes that destroyed or damaged nearly 1,000 homes in the First District of Ohio and 1,700 homes in the Greater Cincinnati area. Through his efforts, nearly $250,000 was provided from the American Red Cross Disaster Relief Fund to aid these tornado victims.

It is with deep appreciation that I thank Robert D. Vessey for the many services rendered to the people of Ohio who were victims of this major disaster and wish him well in his retirement.

A TRIBUTE TO MAYOR ALBERT TAINATONGO TOPASNA OF UMATAC

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. BLAZ. Mr. Speaker, on July 6, 1991, my congressional district, the territory of Guam, paid homage through a State funeral to one of its most beloved and distinguished sons, the Honorable Albert Tainatongo Topasna, mayor of Guam's smallest village, Umatac, where, according to historians, the great discoverer Ferdinand Magellan landed in 1521.

That such a small village would produce such a big personality speaks so well of the village and of Al Topasna. I am of the view that in each community there are usually only 12 apostles who are always present when the roll is called for public service. Al Topasna was such a man.

When the roll was called to serve in the U.S. Armed Forces, he was present;

When the roll was called to serve the public again as a police officer, he was present;

When the roll was called to continue his public service as the commissioner and mayor of his village, he was present;

When the roll was called for community service above and beyond his own responsibilities in his village, he was present; and

When the roll was called to celebrate a good harvest—on land and in the sea—he was present.

Since his passing, a thousand praises have been said verbally and in print about this very common man whose uncommon love and affection for his family, friends, and, even his foes, made him stand out as a giant of a man in the eyes of all who knew him. For each of us, he meant something special—for a particular reason. For me, he meant someone in whom I could confide, someone with whom I could share, and someone from whom I could seek counsel. There are only so many people that each of us could trust with total confidence. Al Topasna was one of those.

We who serve in Congress often make it a point to insure that the record of this, the House of the people of America, reflect certain events for the sake of posterity.

It is with great lament, yet, with great pride, that I rise today in this House to memorialize the passing of, and pay final tribute to, my friend and colleague, Mayor Al Topasna.

It is my way of insuring that the annals of our history include a page devoted to him in recognition of his many contributions to our people, to Guam, and to the United States. It is the most I can do now for my friend; it is certainly the least he deserves.

Finally, I want to say that when St. Peter calls the roll from now on, the distinctive and booming voice of Al Topasna will be heard. Since he was a man of few words, no doubt when the roster is called, he would simply answer as he always did before with the usual: Present.

And present he will always be to his wife and family, and his thousands of friends. I, for one, will be forever grateful that I had him as a friend and I am profoundly honored and touched that he considered me as one of his.

Adios, Iahi Al, esta y birada gi as Tan Marian Dak.

CATHOLIC HOSPICE SHOWS MERCY TO TERMINALLY ILL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the Catholic Hospice in Miami Lakes, FL, meets the long-term care needs of the terminally ill in Dade County. A long-term illness depletes not only the financial resources of a family but also their morale. Catholic Hospice's Caregiver Program works to serve both the patient and the family by offering skilled medical care at home. At home, a certain degree of comfort and normalcy is restored to a family otherwise disrupted by illness.

The goal of the Catholic Hospice Caregiver Program is to offer care in one's residence, where a patient may reside in dignity and with Spanish and English speakers. The program is in the process of establishing a caregiver's fund to help support the cost of services to the Catholic Hospice. The fund will be especially important to meeting the care needs of terminally ill patients with limited resources and without immediate family.

Mr. Speaker, I commend the leadership of those who have made the work of the Catholic Hospice possible. The board of directors includes: Msgr. Bryan O. Walsh, president; Edward J. Rosasco, Jr., vice president; Sr. Jean Shively, secretary; Gloria Hansen, treasurer; Sr. Lorraine Kraverath; Dr. Miguel Suarez;

Patrick Garrett; Rev. Cornelius van der Poel. Full-time volunteers include: Nina Cannato and John Espirito, who are assisted by 52 caring part-time volunteers. The staff in charge of day-to-day affairs at the Catholic Hospice include: Janet L. Jones, executive director; Barbara Janosko, program director; Sally McKinnon, finance director; Jacqueline Irza, patient family care coordinator; Myrna Lechowitz-Rogoff, social services coordinator; Beverly Garrett, director of development; Barbara Vargo, volunteer coordinator; and Dr. Stanley Jonas, medical director assisted by 41 dedicated employees. I encourage all of those involved with the efforts of the Catholic Hospice in bringing comfort to the terminally ill to continue their good work.

NEW HAMPSHIRE PAYS TRIBUTE TO RAYMOND BURTON

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. SWETT. Mr. Speaker, on July 13, 1991, New Hampshire will honor one of its most committed and dedicated public servants, Executive Councilor Raymond S. Burton.

Councilor Burton has represented northern New Hampshire on the five-member executive council for 12 years. During his tenure, Burton has distinguished himself as an outspoken advocate for the many issues important to rural New Hampshire.

His "hands on" approach to government and willingness to stand up for the average citizen has endeared him to his constituents in the State's largest executive councilor district—all the way from Pittsburg in the north to Cornish in the south.

Working tirelessly to effectively represent his 200,000 constituents, Councilor Burton has earned his reputation as a champion of rural New Hampshire concerns.

Mr. Speaker, Councilor Burton has a long and distinguished record of public service. He began his career in government in 1967 when he served as sergeant at arms for the New Hampshire State Senate. He then went on to work on the staffs of Congressman James Cleveland and Gov. Walter Peterson.

During that same period, he also continued to represent his hometown of Bath, NH by serving on the school board for 16 years from 1962–78. He also served as a member of the North County Council.

Councilor Burton graduated from Woodsville High School in 1958 and Plymouth State College in 1962, where he studied teaching. He then taught in Warren and Andover for 5 years and still manages to find time today to take part in an adult education program.

Mr. Speaker, I rise before you today to ask my colleagues to join me in paying tribute to Executive Councilor Raymond Burton as he is recognized for a lifetime of public service.

HONORING MARTIN RENTERIA, CHIEF OF POLICE, MONTEBELLO UNIFIED SCHOOL DISTRICT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. TORRES. Mr. Speaker, I rise today to recognize a special individual, Mr. Martin Renteria, chief of police for the Montebello Unified School District. Martin is retiring after 17 years of dedicated service to the city of Montebello.

Martin was born in Santa Barbara, CA. He was graduated from East Los Angeles College and California State University Los Angeles as a police science major. Later, he also earned a master's degree in public administration from the University of Southern California and holds several professional certificates. Martin resides in Montebello, CA, with his wife Esther, and together they have four grown children and five grandchildren.

Martin Renteria began his law enforcement career as a reserve officer with the Long Beach Police Department and later worked 4 years with the Arcadia Police Department as a fulltime officer. Martin later joined the Los Angeles County Sheriff's Department where he worked for 10 years and was a detective. Martin then went on to serve with the Los Angeles Community College Police Department where he was liaison between the College District Police and the Los Angeles City Chief of Police.

One of Martin's greatest successes, was establishing the Montebello Unified School District Police Department from which he now retires as its chief administrator. Martin established the department and got it certified by the California Peace Officers Standards and Training Commission. The department now consists of 43 officers and provides for the safety and well being of some 58,000 students, teachers, and staff in a six city area including Montebello, City of Commerce, Bell Gardens, and portions of East Los Angeles, Monterey Park, South San Gabriel, and Pico Rivera.

Martin is truly a community leader. He is a member of the Latin Business Association and the Latino Peace Officers Association, as well as the California Peace Officers Association and the California Association of Licensed Investigators. He has served as Sheriff Sherman Block's representative on the Los Angeles City and County Blue Ribbon Crime Task Force and was chairman and an 8 year member of the Montebello City Traffic and Safety Commission, and was director of United Way, Region III. Currently, Chief Renteria serves as president of the California School Peace Officers Association. Following his retirement from the Montebello Unified School District, Martin will head Trojan Security Services, Inc. It is clear, that the lessons learned from Martin Renteria's selfless commitment to public service and law enforcement specifically are a valuable legacy.

Mr. Speaker, on July 10, 1991, family, friends, civic leaders, and the law enforcement community will be gathered to honor Chief Martin Renteria and say farewell to a dynamic person. I ask my colleagues to join me in a salute to a fine individual, Mr. Martin Renteria, for his outstanding record of public service to the city of Montebello and all of Los Angeles County, and to wish him a long, fruitful and happy retirement.

THE LATE LUIGI DEL BIANCO OF PORT CHESTER: THE MAN WHO HELPED CARVE MOUNT RUSHMORE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mrs. LOWEY of New York. Mr. Speaker, July 4 of this year, marked the 50th anniversary of the unveiling of Mount Rushmore National Monument in South Dakota. That monument is a national treasure. In the town of Port Chester, NY, residents still remember fondly their late neighbor, Luigi Del Bianco, known throughout his community as the man who helped carve Mount Rushmore.

From the day when, at 16 years of age, he first arrived in America from Italy in 1908, to his death in 1969, Luigi Del Bianco always exemplified the best of America. An artist and craftsman, educated in stonecutting and carving in Austria, he understood that hard work and dedication is the only sure route to success. His dedication to both his native and adopted countries and his appreciation of his rich heritage was evident when he returned to Italy to defend it against its Austro-Hungarian invaders in World War I, fighting in the Italian Army alongside American and Allied troops. Returning after the war to Port Chester, he married, and became a citizen of the United States, a status he always cherished, on January 13, 1928.

For more than 20 years, Luigi Del Bianco was a trusted lieutenant of the famous sculptor Gutzon Borglum, and assisted him on the Wars of America Memorial in Newark, NJ, the Stone Mountain project in Stone Mountain, GA, and the Mount Rushmore National Monument in South Dakota. At Mount Rushmore, Mr. Del Bianco distinguished himself as chief carver, where he concentrated especially on refining the expressions on the faces. He contributed greatly to the eyes of Abraham Lincoln, which are considered to be among the most lifelike and artistic parts of the monument.

Luigi Del Bianco did reserve some of his artistry for his hometown. I truly wish that my colleagues could see and thus appreciate his fine statuary at the Corpus Christi Church, the Lady of Fatima statue at the Holy Rosary School, and the Spanish-American War Memorial in Summerfield Park, which still grace Port Chester. Through his art and his upstanding character, Luigi Del Bianco, who came to this country as an immigrant, became an integral part of his community and his Nation. In the finest American tradition, he helped in shaping its most famous monument, adding to the esthetic heritage of Port Chester, and raising a fine family to continue the Del Bianco tradition of citizenship and patriotism. His life and his work remind us of the greatness of the

American ideal which we celebrate on Independence Day.

Luigi Del Bianco was truly a man who made a great impression on his neighbors, an immigrant who exemplified the great American values of hard work and dedication to this country, and a fine artist who made an indelible contribution to the United States. Port Chester will long remember Luigi Del Bianco, the man who helped carve Mount Rushmore. As we celebrate our Nation's 215th birthday, and the 50th anniversary of his great work, I am sure my colleagues will join me in remembering and honoring Luigi Del Bianco, who, through the work of his own hands, has left much for this Nation of ours. His works have been an inspiration to many.

THE "SICK" SURPRISE

HON. ROBERT K. DORNAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. DORNAN of California. Mr. Speaker, there has been a lot of irresponsible, par-for-the-course, rumor-mongering in the media lately concerning the January 1981 release of our U.S. hostages who had been held in Iran for 444 days. A book written in 1989, and discounted by everyone but compulsive conspiracy extremists, offered the cynical theory that the Reagan-Bush campaign persuaded the Iranians to postpone release of the hostages until after the election to keep President Carter "a loser."

What is surprising, Mr. Speaker, the key person who has resurrected this unfounded rumor, namely Gary Sick, is a former specialist for the National Security Council, Carter administration.

The watchdog group Accuracy in Media has compiled a detailed report on the absence of facts surrounding this outrageous rumor. Why this rumor is being persistently hyped by the dominant liberal media and the political intentions of those who did the resurrecting is also covered by AIM. I am submitting for the RECORD their comprehensive report:

THE SICK SURPRISE

(By Accuracy in Media, Inc., Washington, DC, Reed Irvine, Editor; Joseph C. Goulden, Associate Editor, May 1991)

Why did Iran release the 52 American hostages on January 20, 1981, only minutes after Ronald Reagan's inauguration rather than shortly before the election on November 4, 1980? Here are two different answers.

(1) The Iranians, having failed to get Carter to accept their conditions for the release of the hostages before the election, and fearing that Reagan would be even tougher, finally signed an agreement on January 19 for far less than they could have gotten earlier.

(2) William J. Casey had persuaded Iran not to conclude a deal prior to the election by offering a better deal after Reagan was elected.

No. 1 is the answer suggested by Gary Sick in his 1985 book, "All Fall Down." Gary Sick was a Middle East specialist on the Carter National Security Council staff. His book provides a blow-by-blow description of the negotiations for the release of the hostages that began in September 1980 and were successfully concluded on January 19, 1981.

No. 2 is the answer given by Barbara Honegger, who worked briefly in the Reagan White House, where she attracted attention by appearing at functions dressed as a bunny rabbit. Honegger laid out her conspiracy theory in a 1989 book titled, "October Surprise," which relies heavily on dubious sources and heroic assumptions.

A number of reporters had checked out the rumors that the Reagan campaign had persuaded the Iranians not to release the hostages before the election, but few found them credible. When Honegger's book was published, few people except conspiracy-theory extremists were paying any attention to her scenario. It lay dormant until The New York Times decided to hype it in an extraordinary way on April 15, 1991. It devoted two-thirds of its op-ed paged to an article promoting it, and in the same issue ran a 24-column-inch story about the op-ed article. Both were distributed by the Times news service to papers throughout the country. Both also plugged a PBS Frontline program on the same subject that aired the next night. On April 17, Times columnist Leslie Gelb, a former Carter administration official who until recently edited the Times' op-ed page, weighed in with a column in which he said, "Hardball politics is one thing. But Presidential candidates or their aides interfering in life-and-death, war-and-peace decisions of a sitting President is quite another. It is treachery." ("Treachery" is different from treason, but in the context, treason was easily inferred.)

GARY SICK'S TURNABOUT

The "October Surprise" soon supplanted the Kennedy-compound rape case and Kitty Kelley's biography of Nancy Reagan as the media's scandal of choice. President Carter and others called for an investigation. House Speaker Thomas S. Foley termed the media reports "very disquieting," and said he had asked some of his colleagues to "explore informally" whether there was enough evidence to justify an investigation. Democrats on the House Judiciary Committee were reported to be considering asking the attorney general to appoint a special prosecutor. The Washington Post, which had run a lengthy article exposing the weakness of the evidence, joined the bandwagon on April 29 with an editorial supporting an investigation.

Leading the chorus was the author of the extraordinary op-ed article in The New York Times that had started the ball rolling—Gary Sick, the very same former Carter aide whose 1985 book shows how wacky Barbara Honegger's conspiracy theory is. After describing in detail the intricate and difficult negotiations for the release of the hostages that were finally concluded on January 19, Sick's book points out that the Iranians did not get a better deal by delaying the settlement until after the election.

He says: "The Iranian leaders could reasonably argue that whatever the outcome, Iran was likely to get a better deal before the elections than after. . . . The package that finally resolved the issue some ten weeks later was, in several respects, less advantageous to Iran than the offer the United States had on the table in October." He elaborates, "In retrospect, it appeared the longer Iran negotiated the less it got, and those in Teheran who opposed the settlement were not shy in drawing attention to the very considerable financial concessions the Iranian team had accepted. Certainly, if anyone had proposed such an outcome when the talks began in September 1980, it would have been rejected as unthinkable." He notes that the Iranian negotiators didn't even realize that Reagan would not take office the day after the election, but he comments that they were shrewd enough to realize that "a president assured of four years in office would be less likely to compromise than a president fighting for his political life." That explains why they reluctantly made their deal in the last hours of the Carter administration.

Sick now says that as recently as 1988 he had dismissed the rumors of a Republican effort to delay the release of the hostages, but in doing research on a book on Iranian policy during the last two years, he "began to recognize a curious pattern in the events surrounding the 1980 election." He says he conducted "hundreds of interviews, in the U.S., Europe and the Middle East," during which he was "told repeatedly that individuals associated with the Reagan-Bush campaign . . . met secretly with Iranian officials to delay the release of the American hostages until after the Presidential election. For this favor, Iran was rewarded with a substantial supply of arms from Israel."

Daniel Pipes, director of the Foreign Policy Research Institute, cast doubt on this explanation of Sick's turnabout. He wrote in The Wall Street Journal that during the 1988 election campaign Sick said that he no longer dismissed the conspiracy theory that Barbara Honegger and others had tried so hard to promote.

SICK'S PLOT SICKENS

Of the claimed "hundreds of interviews" Sick identified only two individuals by name in his New York Times article, only one of whom alleged the existence of a Republican plot. His other sources are described as "former Israeli intelligence agents, former Reagan campaign aides" or simply "sources." In the accompanying news story, Sick named three other individuals who, he said, had second-hand knowledge. Sick admitted some of his "sources" are "no boy scouts," but persons who have "been arrested or have served prison time for gunrunning, fraud, counterfeiting or drugs." He added, "Some may be seeking publicity or revenge." He produced no new evidence from reliable named sources that would justify the Times' treatment of his article.

The one named source who charged that the Reagan campaign successfully blocked the release of the hostages was arms dealer Jamshid Hashemi. Sick said Hashemi and his brother, Cyrus, had "good contacts in Iranian revolutionary circles," but he omitted mention of the fact that in 1984, the Reagan Administration indicted Cyrus Hashemi on charges of illegally exporting weapons to Iran. Former attorney general Elliott Richardson contacted William Casey, then director of central intelligence, on Hashemi's behalf, pointing out that he had been helpful to the CIA. Richardson says that at that time neither Casey nor the Hashemis indicated that they knew each other, and Casey did not intervene on their behalf. Cyrus Hashemi died in 1986, his criminal case unresolved.

Sick didn't explain why the Reagan administration would prosecute a man who was privy to a secret that could have blown it sky high and why that man took the secret to his grave, not even mentioning it to his lawyer. Nor did he explain why he placed faith in a man he called "nefarious" and who was motivated by a personal grudge.

Sick claims that William J. Casey took the initiative in contacting Jamshid Hashemi in Washington in February or March 1980, right after Casey took over as manager of the Reagan campaign. He says Casey "made it

clear that he wanted to prevent Jimmy Carter from gaining any political advantage from the hostage crisis." This implies that only four months after the hostages began their long ordeal, one of Casey's highest priorities was making sure that they remained in captivity until after the November election. Even if Casey harbored such an odious thought, he surely would not confide it to a nefarious Iranian arms merchant that he was meeting for the first time.

MEETINGS IN MADRID, PARIS

Sick maintains that the Hashemi brothers arranged for Casey to go to Madrid in late July 1980 to meet a powerful Iranian cleric named Mehdi Karrubi, who, he says, is now the speaker of the Iranian parliament. In a television interview with Dick Cavett on April 27, Sick said Casey told the Iranians, "Look, we don't want the hostages released before the election because that would possibly turn the election away." Casey is alleged to have promised that once Reagan was elected, he would release Iran's frozen assets and help them acquire military equipment through Israel. He says Karrubi took this offer back to Iran and that a second meeting was arranged in Madrid two or three weeks later "in which the deal was supposedly done." Sick claims that "two other (unnamed) sources" gave similar accounts. They were evidently unable to provide the exact dates of these meetings.

Richard Allen points out that he and Casey had been in Europe calling on prominent leaders in the first days of July. He says that with the convention coming up in mid-July and a heavy schedule of planning meetings in California immediately after, Casey had no time to dash off to Madrid to meet an Iranian cleric. In his book, Sick points out that there was political turmoil in Iran in July and August. President Bani Sadr was "locked in an intense and losing battle with the Islamic Republican Party over the selection of a prime minister and a cabinet." Not until September 10 were a prime minister and cabinet selected. Sick says, "The institutions that Khomeini had proclaimed necessary for the settlement of the hostage crisis were finally in place."

It would have been a waste of time for anyone to try to negotiate this complex and thorny issue in July and August. No one should know this better than Gary Sick. After the Iranians signaled their willingness to begin talks in mid-September, our best negotiators, backed by all the technical expertise in the government, spent four frustrating months trying to hammer out an agreement. The idea that Casey could have done that singlehandedly in three brief meetings when the Iranian government was in disarray is ludicrous.

Even though Sick says the deal was done in Madrid, he would have us believe that Casey and perhaps George Bush and others met with a high-level Iranian delegation in Paris between October 15 and 20, 1980. He claims that "more than 15 sources . . . claim direct or indirect knowledge of some aspects" of these meetings. But he did not name a single one of these sources in his long Times piece. He says it was again established that the Iranians would hold the hostages until after the November 4 election; "in return, Israel would serve as a conduit for arms and spare parts to Iran."

A LOOK AT THE SOURCES

The alleged Paris meeting has been a favorite of the conspiracy theorists because their sources claim that George Bush was one of those who attended. Barbara Honegger has been the main promoter of the claim that Bush was there. "Frontline" pushed it hard. Gary Sick denies endorsing it, but he is reluctant to dismiss it.

Honegger's sources for the Bush-in-Paris story are former Iranian president Bani Sadr, Heinrich (Harry) Rupp, Richard Brenneke and a William Herrman, another dubious self-proclaimed CIA contractor. Rupp, a gold dealer who was convicted of loan fraud that led to the failure of a bank in Aurora, Colorado in 1985, tried to involve the CIA in his defense. In an interview on KUSA-TV, Rupp claimed that he had flown William Casey and five other passengers from Washington to Paris on the night of October 18, 1980. In a Rocky Mountain News interview, he claimed that Bush had flown to Paris the same night on a Gulfstream jet with a different pilot but that he saw him on the tarmac at Le Bourget airport.

His friend Richard Brenneke, a pilot who claims to have smuggled arms and drugs while working for the CIA, had testified on Rupp's behalf at a sentencing hearing two week's prior to Rupp's KUSA interview. He was asked if he had any personal knowledge of flights by Rupp that involved George Bush. He replied, "Yes, sir, I do. On the 19th of October, Mr. Rupp brought Mr. Bush, Mr. Casey and a number of other people to Paris, France, from the United States, for a meeting with Iranian representatives." Brenneke testified that he himself participated as a CIA observer in a meeting with Iranians at the Hotel Florida in Paris together with Donald Gregg, a CIA employee assigned to the National Security Council staff, and a Frenchman named Robert Benes. Brenneke claimed he had been a CIA contractor for over 18 years.

The government charged Brenneke with perjury for swearing that Bush, Casey and Gregg were in Paris around October 19 and that he was a CIA employee. The case was tried in Portland, Oregon in April 1990. Under cross-examination, Brenneke said that he had been told by two Iranians and Robert Benes that George Bush and Richard V. Allen, the Reagan campaign foreign policy expert, were meeting with the Iranians in Paris. Brenneke then said, "I had no reason to believe them then, and I have no reason to believe them now." His dumfounded attorney asked why he had testified as he had at Rupp's sentencing hearing. He replied, "I simply repeated what I was told. I offered it without commentary or conclusion. I disbelieved it then, and I disbelieve it now."

Besides having sworn that he had personal knowledge that Rupp had flown Bush, Casey, Allen and others to Paris, Brenneke had told Barbara Honegger that he had four sources for the information that Bush was in Paris: Rupp, Robert Benes, Cyrus Hashemi and Donald Gregg. Benes and Gregg have both denied this; Hashemi is dead; and Rupp only claimed that he saw Bush at the airport.

To the astonishment of many, the Portland jury acquitted Brenneke despite his repudiation of his testimony and abundant evidence that it was false. Juror Mark Kristoff said the verdict had nothing to do with any "October Surprise." He was quoted in the Portland Oregonian on May 7, 1990, "We kept it simple. We didn't want to get involved in the presidential election." Kristoff indicated that the jurors had been impressed by the testimony that the CIA maintains "deniability," the privilege of lying to protect its secrets and its agents. Brenneke lawyer Michael Scott agreed, telling the Oregonian that the verdict did not prove that Bush secretly went to Paris. However, the government failed to prove to the satisfaction of the jurors that Bush, Casey and Gregg were not there, leaving a doubt that Gary Sick is now exploiting.

WHERE WAS GEORGE BUSH?

On CNN on May 1, Sick said that he was "not charging that George Bush was in Paris," but he felt "it would be easy to prove he was not in Paris," since he was then a vice presidential candidate. On Dick Cavett's show on CNBC on April 27, Sick attached considerable weight to Brenneke's acquittal on the perjury charge.

He said, "One of the things I've been struck by is that one of the people who has been giving testimony about this whole sequence of events was actually put on trial by the U.S. government last year for perjury. And he had said that he had heard that George Bush was in Paris for these meetings . . . and he saw Don Gregg, an intelligence guy who is now our ambassador to South Korea. Had seen them there and swore that they were there. The U.S. government brought a case against him for perjury . . . All they had to do was prove one of those charges was false and they send him to jail. They presented evidence. Don Gregg came back from Korea, testified at the trial, and the jury listened to all the testimony, and they found this man innocent. The government could not prove to the satisfaction of twelve ordinary Americans that George Bush was not in Paris, that Casey was not in Paris and that Don Gregg was not in Paris . . . I would like to see the campaign records opened up . . . If this isn't true, I'll be the first to admit I'm wrong."

The burden of proof in such cases rests primarily on those making the allegations. Anyone can make wild charges, and few people can produce documentary evidence of their whereabouts in the distant past. But Sick is right that a vice presidential candidate should not have that problem. For one thing, the Secret Service keeps track of his movements. Sick's scholarship is weak in two respects: (1) he doesn't know that Richard Brenneke said under oath that he didn't believe those who told him that Bush was in Paris; (2) he doesn't know that the record of Bush's movements on October 18–19, 1980 is shown in Honegger's book. To anyone but a diehard conspiracy theorist like Honegger it proves that Bush was not in Paris.

Honegger says the Secret Service logs show Bush speaking at 8:40 p.m. at Widener College near Chester, Pennsylvania and arriving at Washington National Airport at 9:25 p.m., which would be impossible. Honegger found that the Chester hotel records showed him checking out at 11:00 p.m., which would have put him back in Washington around midnight. The Secret Service logs for the next day, Sunday, October 19, put him at the Chevy Chase Club from 10:29 to 11:56 a.m., presumably playing tennis. He gave a speech to a Zionist group in Washington at 7:00 that evening. This doesn't satisfy Barbara Honegger, who says that either the Secret Service records are wrong or Bush was using a "double." It should satisfy a scholar like Gary Sick that Bush did not dash off to Paris.

WHERE WERE CASEY, GREGG AND ALLEN?

According to Honegger, the Boston Globe located Casey's appointment book at the Hoover Institution. It reported no entries for the weekend of October 18 and 19, but on October 20 he had appointments scheduled for 8:00 a.m., 10:00 a.m. and 4:00 p.m. Honegger writes darkly that the "Globe could find no evidence that the appointments listed for the

20th had actually been kept." She wants to believe that they weren't kept, because her sources claimed that Casey met with the Iranians in Paris that day.

Donald Gregg is accused by the conspiracy theorists of dashing off to Paris to help the Republicans negotiate a deal with Iran to block the release of the hostages at the same time he was serving President Carter on the staff of the National Security Council. Gregg testified that he and his family were at the beach on the weekend in question, but they could not provide documentary evidence to prove it. Finally, Richard V. Allen, who was also supposed to have been in Paris with Bush, Casey and Gregg, was actually credited by Honegger with having "an airtight alibi, at least for October 19." He was interviewed on a live television program that day.

THE PAYOFF

The Iranians have proven to be hard bargainers. The Iran-Contra hearings made it clear that the Iranians demanded arms-on-the-barrelhead before releasing any hostages. They showed their tenacity by dragging out the negotiations with the Carter administration for the release of the 52 hostages in January 1981 for four months, Gary Sick, Les Gelb and others in the media who have given credence to his suspicions would have us believe that these tough bargainers were so charmed by George Bush and Bill Casey, after meeting them for a few hours that they did their bidding in return for nothing but a promise that if elected, Reagan would sanction the Israeli sale of arms to Iran. Sick professes to find proof of this in the fact that Israeli did sell arms to Iran after Reagan took office.

But Carter's National Security Adviser, Zbigniew Brzezinski, says in his memoirs, Power and Principle, that the Carter administration was willing to provide arms and spare parts immediately if the hostages were released. He said that by mid-October they were even discussing "the possibility of prepositioning some of these spare parts in Germany, Algeria, or Pakistan, so that the Iranians could then promptly pick them up with their own aircraft." He notes that the NSC learned, "much to our dismay, that the Israelis had been secretly supplying American spare parts to the Iranians, without much concern for the negative impact this was having on our leverage with the Iranians on the hostage issue." Richard Allen says that Israel defended this as necessary to get Jews safely out of Iran, and there is evidence that they continued to ship some supplies, with or without U.S. approval in 1981.

STRATEGIC COOPERATION

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. ASPIN. Mr. Speaker, for most of the last decade, the centerpiece of American-Israeli relations has been what's known as "Strategic Cooperation." With the demise of the cold war, many friends of Israel have feared the demise of strategic cooperation, since many think the sole rationale for strategic cooperation was to structure Israel's assistance in combating the Soviet Union.

That is, however, a gross misunderstanding of what strategic cooperation is all about. There's much more to our strategic relationship with Israel than the cold war.

But neither should strategic cooperation be thought of as a static relationship, something that fulfills the goals outlined in the early 1980's and then rests on its laurels. I have always hoped strategic cooperation would be a dynamic relationship.

The Center for Foreign Policy Options has just come out with a 32-page study that pursues this theme entitled "The Future of United States-Israel Strategic Cooperation." It outlines in five crisply worded papers a series of initiatives that could be taken to expand and develop the relationship in the 1990's.

Alan Platt, an officer of the Center for Foreign Policy Options, has written the introduction to and summary of this excellent work. I commend the full report to all those interested in Israeli-American relations, and I ask to include the text of Mr. Platt's introduction and summary at this juncture.

INTRODUCTION, EXECUTIVE SUMMARY, AND RECOMMENDATIONS

(By Alan Platt)

As the Cold War recedes and the ramifications of the end of the Gulf War become clearer, it is obvious that the United States will have to rethink its strategy around the globe. Inevitably, this new strategy will involve having the United States take the lead in pursuing new foreign policy initiatives. Yet, there is no obvious blueprint about what kinds of global relationships should be sought from America's point of view. Indeed, especially in the next couple of years, America's approach is likely to be highly pragmatic, concentrating on solving new problems in an ad hoc manner. In a recently published monograph entitled "Beyond Alliances" that was completed by former Chairman of the Joint Chiefs of Staff General David Jones and two colleagues, it was argued that America must seek "focused partnerships." By this, the authors mean that "the new national strategy of the United States should be to take the lead in creating working partnerships with other nations to develop pragmatic solutions to the problems that undermine the security of all."[1]

One key bilateral relationship for the United States in this post-Gulf War world will be with Israel. Strategic, political, economic and cultural cooperation between the United States and Israel has grown in unprecedented ways in recent years. Perhaps most importantly in the wake of recent events in the Gulf is the nature and direction of the continuing strategic relationship between these two countries. U.S.-Israel strategic cooperation was never premised on solely countering the Soviet threat in the Middle East. Both Washington and Jerusalem favored a broader concept and approach. The fruits of this broader perspective were obvious during the recent Gulf conflict. It may be years before the public has a full understanding of the military and intelligence cooperation that took place between the United States and Israel prior to and during the conflict. Nevertheless, whether concerning training in the desert or deploying Israeli battle-tested systems such as reconnaissance drones or Have Nap air-to-ground missiles, American-Israeli bilateral strategic cooperation was of great value in helping the United States deal with Iraq's recent threat to American security interests in the region.

[1] Alice Rivlin, David Jones, and Edward Meyer, Beyond Alliances: Global Security Through Focused Partnerships (October 2, 1990), A Study Funded by the MacArthur Foundation and the Rockefeller Foundation, p. 28.

Where does U.S.-Israeli strategic cooperation go from here? Resulting from a yearlong series of meetings that began in the spring of 1990 prior to the commencement of hostilities in the Gulf, this volume is designed to lay out several possible new directions and a series of prescriptive recommendations. Notwithstanding near-term developments in the peace process, a number of these ideas may be in the mutual interest of both countries to implement immediately. Others may usefully stimulate further thought and discussion. All are premised on the notion that as the Cold War and Gulf Crisis recede, future strategic cooperation between the United States and Israel will likely grow, probably in new directions, to meet the changing nature of the security threats facing both countries in a vital but unstable region of the world.

The first chapter, "The U.S.-Israeli Strategic Relationship after the Persian Gulf War," written by Steven L. Spiegel, outlines the contemporary political landscape in the Middle East in which U.S.-Israeli strategic cooperation, he predicts, is likely to grow. He argues that Israel in recent years has helped to further U.S. interests in the region by playing five broad roles: an anchor in an unstable region; a bulwark against Soviet expansion; an important Mediterranean presence; a partner in defense-industrial development; and an ally in regional intelligence gathering and fighting international terrorism. Spiegel then discusses how "these five major areas of U.S.-Israeli cooperation will endure and progress but in an altered way as we move into the post-cold war era." He concludes by discussing seven possible new areas of U.S.-Israeli cooperation: containing Islamic nationalism; countering new weapons threats; service as a major non-NATO ally; providing naval support and maintenance; enhancing high-tech cooperation; protecting the environment; and promoting democracy.

The chapters following Spiegel's each select a different thread of U.S.-Israeli collaborative activities and examine in more detail new means for the United States to realize the benefits of each. Peter Wilson's chapter investigates changing U.S. military requirements for the next twenty-five years—what he calls the trans-century—and how Israel can play a larger, highly beneficial role in the coming technological revolution in conventional weapons. Wilson argues that there are specific practical steps that can be taken to strengthen U.S.-Israeli military cooperation which, especially in light of the Gulf War, would serve the future security interests of both countries. Such steps would include: increased joint operational support efforts; joint weapons development in such areas as light combat vehicles, top attack and aerial munitions, and anti-tactical ballistic missiles; and regional arms control efforts.

In a chapter on U.S.-Israeli defense-industrial cooperation, William Schneider, Jr. argues for the creation of an organized institutional infrastructure to enhance defense-industrial collaboration as an element of strategic cooperation. An inevitably smaller U.S. military force structure will depend, Schneider argues, on the ability to mobilize its military and defense-industrial base to augment its diminished active duty force structure. Since Israeli defense industries have made major investment in new R&D technologies, the U.S. should make a concerted effort to take better advantage of those investments to the mutual benefit of both countries. To accomplish this Schneider

believes that the United States would be well-advised to establish institutional arrangements which tie together future U.S military requirements and Israeli R&D and industrial capacity.

Martin Ingall's chapter focuses on two potential new areas of strategic cooperation: special operations and drug interdiction. For Ingall, "as the Pentagon and other (U.S.) agencies seek more advanced special operations and interdiction systems, valuable lessons can be attained through cooperation with Israel." In this chapter, Ingall discusses in some detail a number of these lessons, which flow from Israel's advanced technology in such areas as robot reconnaissance vehicles, sensors to detect explosives and illegal drugs, and special operations boats and aircraft. He concludes that the United States and Israel, by jointly building on existing programs and growing budgets for low intensity conflict, can significantly increase their respective capabilities in these areas.

In a final chapter on U.S.-Israeli stratetic cooperation and the U.S.-Israeli Defense Memorandum of Understanding, Paul Forster discusses the details of how and why ongoing joint efforts have not gone as far or as fast as was originally envisaged. Forster evaluates "a decade of progress and pitfalls" concerning U.S.-Israeli scientist and engineer exchanges, data exchange agreements, reciprocal procurement, and cooperative weapons research and development. Forster recommends several new initiatives that would help overcome or mitigate the bureaucratic and political problems that have hampered cooperation under the current Defense Memorandum of Understanding. He concludes by observing that "movement towards more productive and stable U.S.-Israeli strategic cooperation would begin with the implementation of a number of the recommendations put forth herein" that would significantly expand activities under the Defense Memorandum of Understanding and would greatly benefit both countries.

Clearly, each of the authors demonstrates that the demise of the Cold War brings with it new opportunities for enhanced U.S. strategic cooperation with Israel. From the American perspective, such enhanced cooperation may, in fact, be increasingly desirable in light of projected reductions in the U.S. defense budget in the next few years and the simultaneous rise of new challenges to U.S. security interests in the Middle East. The fact remains that bilateral collaboration has much to offer both nations in the emerging "New World Order." With the ideas presented in this volume, we hope a new dialog can begin that explores the areas of common interest with fresh perspective and insight.

A TRIBUTE TO SOUTHPOINT MANOR AND THE NATIONAL NURSING HOME WEEK

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it gives me great pleasure to recognize the efforts of south Florida in honoring the elderly of the area. Three south Florida nursing homes—Southpoint Manor, Hebrew Home for the Aged, and Gem Care Center—participated in the National Nursing Home Week which was held May 12–18.

The event was promoted by the Florida Health Care Association and made possible by many members of the community. Staff from the three nursing homes, health care professionals, doctors, businesses, volunteers, senior companions, and social workers gave their time and energy to make this event possible.

During the preparation of the celebration Southpoint Manor and the volunteers spent moments of anticipation with the hope and joy of what this event would be like for the residents. As they approached the date of the festival Southpoint Manor began to develop a bond among the entire staff and the other two nursing homes, Hebrew Home for the Aged and Gem Care Center. They were working for common goals, to bring the different members of the community together and to make the residents of the nursing home happy.

The 4-hour event brought a community together as both young and elderly enjoyed the festivities and learned from each other. The community showed its respect and care for the elderly at this event, which was greatly appreciated by the nursing home residents.

I commend these members of the community that took the time to care and recognize the elderly. They include members of Southpoint Manor Gladys R. Hernando, Selma Hodge, Karen Lark, Jesse Dunwoody, Eddy Hernando, Nick Antonacci, Maria Mayor, Maria Vergara, Louise Jones, Tyron Ryan, Joyce Williams, Marvel Walter, Jackie Carter, Dortha Vandecar, and Ruth Gordan.

A TRIBUTE TO IRVING HARRIS

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. YATES. Mr. Speaker, one of my oldest and dearest friends, Irving Harris, is being honored on Sunday, July 14, by the Chicago Chapter of the American Committee for the Weizmann Institute of Science. The committee has chosen well.

Irving Harris is one of the Nation's most distinguished citizens. He has been a giant in the business world for more than 40 years, and he is admired in Chicago and all across the country for his amazing accomplishments as an enlightened and generous humanitarian. This kind and thoroughly delightful man has invested vast amounts of his time and talents as well as his resources to make this a healthier, more humane, and decent country, and I am proud to call him my friend. Addie joins me in wishing Irv and Joan and all their many friends in Chicago a most memorable evening.

PRAISE FOR MRS. YEVOLA S. PETERS OF ANNAPOLIS

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. McMILLEN of Maryland. Mr. Speaker, on Sunday, July 14, the Anne Arundel County Economic Opportunity Committee will pay tribute to its chief executive officer, Mrs. Yevola S. Peters of Annapolis.

Mrs. Peters will be honored for her more than 20 years of service to the less fortunate citizens of Anne Arundel County. As Mrs. Peters will be leaving the Community Action Agency, tribute is in order for the wonderful work she has done.

Mrs. Peters first became involved in the Community Action Agency in 1969, first as director of the Youth Development Program, then as community organizer and coordinator of general community programming. Her leadership talents soon became evident as she ascended rapidly to the positions of chief program officer and assistant director. In 1976, Mrs. Peters became AACEOC's third executive director and the agency flourished under her leadership in spite of severe budget cuts. She vowed not to leave her position until she had eliminated a serious deficit; today, as she retires, she has been successful.

Mrs. Peters is an asset to the Anne Arundel County community, and her dedication to the fulfillment of the agency's mission of ameliorating conditions of poverty in this area is an example to us all. I congratulate Mrs. Peters on this occasion, and hope that many young Americans will follow in her footsteps as dedicated, active citizens in the community.

TRIBUTE TO JOHN F. KENNEDY HIGH SCHOOL ORCHESTRA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. MATSUI. Mr. Speaker, I rise today to speak to you about the John F. Kennedy High School Orchestra which is traveling to Vienna, Austria, in July. This is a group of truly outstanding young people and I wanted to take this opportunity to extend my best wishes for a successful trip.

While in Vienna, the John F. Kennedy High School Orchestra will compete against 50 to 60 ensembles from 20 countries at the 20th Annual International Youth and Music Festival. Kennedy will be the first school in the Sacramento City Unified School District to send a music group to Vienna and will be one of only 19 groups from all of North America.

Nearly a half century ago, during World War II, 18 manuscripts by Wolfgang Amadeus Mozart, Franz Schubert, Michael Haydn, Eberlin, Gansbacher, Hummel, and Tauz disappeared from the eighth-century Benedictine Monastery of Kremsmeunster. These lost manuscripts are now being returned to Vienna from the University of California at Berkeley Library, which has had the manuscripts for the last 14 years. None of the 18 manuscripts has ever been published, and the John F. Kennedy High School Orchestra will be giving the world premiere of these works. As Vienna will be celebrating the 200th anniversary of Mozart's death this summer, this festival should be especially memorable for everyone involved.

In order to cover some of the high cost of sending such a large delegation, the students and their parents have organized a massive

fundraising effort. Letters seeking tax-deductible donations are being sent to local businesses and the orchestra members are preparing for a bingo night, car wash, baseball card show, candy sale and other activities to raise money for the trip.

Mr. Speaker, all of us in the Sacramento community are extremely excited about this trip. It is not only an outstanding cultural, musical, and educational opportunity for the participants, but an outstanding example of what can be achieved when people come together and work hard in pursuit of a worthwhile endeavor.

THERE'S NO PLACE CALLED HOME

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. MILLER of California. Mr. Speaker, I would like to call my colleagues' attention to a report recently released by the Coro Foundation, "There's No Place Called Home," assessing the needs of homeless children in shelters in my neighboring county of Alameda, CA.

Homeless families with children are currently the fastest growing segment of the homeless population in our Nation. According to the U.S. Conference of Mayors, in 1989, one-fourth of all homeless people in the United States were children. In 1990, there was an estimated 13,000 homeless children in Alamenda County alone, three times the number of children who sought refuge in the county's homeless shelters in 1989. Despite this growth in homeless children, existing programs continue to focus on the needs of homeless adults, not homeless children.

As the Select Committee on Children, Youth, and Families documented, homeless children face a multitude of emotional, educational, and health problems. Without the stability of a home, not knowing where or when you will eat your next meal, and fearing separation from your parents all disrupt the emotional health and the quality of life of homeless children. Not surprisingly, homeless children are at high risk of potential mental health disorders. However, in such a chaotic environment, the well-being of children is often overlooked.

Although most of the shelters surveyed in Alameda County require that children stay in school, homeless children who want and need to attend school are often denied this opportunity. Many face the barriers of transportation, proper records, and immunization requirements. The constant move from shelter to shelter also causes a lack of continuity in homeless children's education. The study found that over two-thirds of the children had attended two different schools in the past year.

In addition to emotional stability and education, health care is a critical need for homeless children. More than 40 percent of the children did not have a regular medical doctor and had not received a dental checkup in more than a year. Over 40 percent of the interviewed parents said their children had special health care needs which included asthma, epilepsy, brain damage, and diabetes.

Today, several programs exist to help mitigate the debilitating effects of homelessness on children, but they are far from sufficient. The needs of homeless children and their families must finally be recognized and addressed. Congress responded by enacting the Stewart McKinney Homeless Assistance Act, and in recent years has targeted more resources for homeless children. But even if these programs were fully funded, they would not provide long-term solutions to the problems of homelessness.

Our Nation must recognize that the best way to break the cycle of homelessness is to prevent it from starting in the first place. While we must address the immediate needs of homeless children and their families, more importantly we must also target the root of the problem—the lack of affordable housing and the obstacles to preventive measures that work to keep vulnerable families together.

UNITED METHODIST CHURCH OF QUEENSBURY, NY, THRIVES DESPITE HUMBLE BEGINNINGS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. SOLOMON. Mr. Speaker, Americans are a deeply religious people.

And I would say that is especially true of the people of the 24th District of New York, which I have the privilege of representing. For many people, their place of worship seems to be the center of their lives. Whether the church traces its roots to the earliest colonial times, or only to post-World War II expansion, every one of them yields an interesting story of humble beginnings followed by growth.

Today, Mr. Speaker, I want to tell you the story of one of them, the United Methodist Church of Queensbury. But I could not tell it better than my hometown newspaper, the Glens Falls Post-Star, did recently, and I proudly enter the article in today's RECORD.

[From the Glens Falls Post-Star]

QBY CHURCH BUILT IN DO-IT-YOURSELF STYLE—RESTAURANT HOSTED METHODIST CHURCH'S 1ST SERVICE

(By Kim Sparks)

There was a necessity in the early 1960s for another Protestant church in Queensbury. There must have been, since the Troy Conference, the body that initiated action to begin another one, was not prone to frivolity.

As a matter of fact, in 1964, when the Troy Conference purchased the land where the United Methodist Church of Queensbury would eventually sit, over 100 years had passed since the organization had made such a move.

Before any money changed hands, however, a group of dedicated young people including Robert Patch and Warren Clark (both of this area and charter members of the church) surveyed Queensbury families. They walked house-to-house asking the inhabitants a couple of determining questions.

"If they said they were Catholic, we wished them well and thanked them for their time," Patch said. "But if they were Protestant, we asked them if they would consider attending a Methodist church if one were established in the area."

Patch said they found that there was a real interest, so in September 1965, after numerous meetings in various homes, a group of 75 people held their first worship service at JeRay's Restaurant on Route 9.

The group had been invited to use the banquet room by Mr. and Mrs. Ray Brennan, who owned the restaurant.

"The Brennans were perfect hosts and soon our Sunday morning services spread beyond that one spacious room," wrote Grant Cole, in a report where he described "important highlights of the development" of the United Methodist Church of Queensbury.

Cole was one of the first trustees of the church, as well as a charter member. Cole went on to praise the Brennans, writing that there was no charge for anything—not electricity, heat or snow plowing.

"The Brennans stayed up cleaning till 4 or 5 o'clock many Sunday mornings after hosting Saturday night dances at JeRay's," said Patch. "They would even take the beer signs down for us."

The group continued to hold services at JeRay's for almost three years. The congregation, along with its first pastor, the Rev. Edward Underwood, felt at home there, and they were determined to create a religious atmosphere.

"Samuel 'Pete' Wilson used to bring his organ from home every Sunday," recalled Patch. He said it took four people to move it from Wilson's station wagon and then back to the car after worship.

Meanwhile, word was traveling that the newly chartered congregation needed money to build a church. Although some funds were attained through a loan, other money came from the contributions of Methodist congregations everywhere.

Kenneth Gnade headed the building committee, which visited several area churches for construction ideas. The Queensbury congregation's building ended up being patterned after a church in Rexford.

The same building corporation, Ketchum Construction, was hired to do the job, breaking ground in December 1967.

Before this tangible part of the faith began, however, some structuring was accomplished at another level with the help of Ralph Nicolson. He and the Rev. Dr. Hobart Goewey (the Glens Falls district superintendent for the Troy Conference at the time) were key to the formation of the church.

They were part of a group of four people on the first committee which organized the election of the new church's officials. Nicolson, who holds membership at United Methodist Christ Church in Glens Falls, said that the committee lasted only as long as it took for the elections.

"It's not unusual for an established church to loan its members," Nicolson said. It's a temporary situation to familiarize the new church's members with the Methodist system, he said.

And they were certainly "familiar with the system" on Easter Sunday in April 1968, when the congregation held its first service in the completed building on Aviation Road.

It was not an elaborately styled church. The worshipers came in through white double doors that could just as easily have been the entrance to a schoolhouse.

Practicality counted. The sanctuary was used for worship and more; it was also a place for meetings and church dinners, for example.

It was called the "general purpose room" and so was simply decorated, complete with folding chairs set up in rows for Sundays.

The Rev. Roger U. Day lead 271 people in worship during that exciting first service. He had replaced the Rev. Underwood late in 1967.

By the time the church was consecrated, its name had changed twice. As early as February 1966, a suggestion box for names was set up and then a special congregational meeting was held. Out of that meeting came the "First Methodist Church of Queensbury."

But there were complaints that the name didn't promote the reputation being strived for. The congregation wanted the people of the area to know that anybody was welcome to join them—newcomers to the community as well as lifelong residents would be accepted into their group.

Thus, a second meeting bore the title "Queensbury Community Methodist Church." The present name, "United Methodist Church," was the result of a 1968 national decision.

A story of courage and "faith in action" (as a 1968 bulletin of the church described), it continues on with its fifth pastor, the Rev. Ralph Marino, who has given the Sunday sermons since 1986.

Marino, a tall, serious-looking man, might surprise some with his sense of humor. He holds a two-point charge, which means he also preaches at Sanford's Ridge in Kingsbury, which is a contrast to Queensbury United Methodist, since it's one of the oldest churches in the Troy Conference.

The newer building in this two-point charge has changed some over the years; it's now equipped with a handicap access ramp which leads up to inviting red doors.

Other slight changes may have taken place, but the general purpose room is still there, the kitchen used for cooking church dinners and cooking classes is still there, and so is the "Brennan Room" downstairs, named in honor of the couple who made the early services both possible and comfortable.

The "Brennan Room" is used for Sunday school and many different community meetings such as Alcoholics Anonymous, Al-a-Teen and Girl Scouts, to name a few. The basement area also holds rooms used for a semi-independent nursery school.

Four hundred people now belong to the United Methodist Church of Queensbury. As always, they are looking toward the future, a proposal exists to build a new sanctuary near the existing building that would hold more people.

IN HONOR OF THE PROMOTION TO BRIGADIER GENERAL FOR COL. FRANCIS D. TERRELL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. RANGEL. Mr. Speaker, I would like to take this opportunity to congratulate Col. Francis D. Terrell, whom on July 13, 1991, will be promoted to the rank of brigadier general in the U.S. Army Reserve. Colonel Terrell has devoted his life to defending the freedom enjoyed by American citizens in the armed services and in the field of law.

A native New Yorker, Colonel Terrell was born in Caledonia and raised in Batvia. He was commissioned as a second lieutenant in 1963 after completing ROTC training as a distinguished military student. In December of that same year, he graduated from the Air Defense Artillery Officer Basic Branch Course at Fort Bliss, TX.

Colonel Terrell's academic record is exceptional: He has graduated from such fine military institutions as the Air Defense Artillery Officers Basic Course, the U.S.A. Infantry Airborne School, Special Warfare School, Defense Language Institute [Vietnamese], Judge Advocate Officers Basic and Advanced School, Command and General Staff College and the prestigious U.S. Army War College. He also graduated with a B.S. from the University of Toledo in chemical engineering and received a J.D. from Columbia Law School.

After joining the reserves in 1977, Colonel Terrell served a variety of legal positions including defense counsel, chief international law/claims, deputy staff judge advocate, staff judge advocate and Deputy Chief of Staff of Operations. On April 23, 1989, because of his valiant service rendered to the Reserves, he became the deputy commander, 77th ARCOM.

Colonel Terrell has achieved an accomplished civilian lifestyle as well as an outstanding military career. He has been the associate dean and director of the Greenberg Center for Legal Education and Urban Policy for the City College of New York since October 1988, helping to educate and guide our Nation's youth to become tomorrow's leaders. Decorated on many occasions, Colonel Terrell has been the recipient of the Bronze Star, three Meritorious Service Medals, the Republic of Vietnam Honor Medal, the Republic of Vietnam Gallantry Cross with Bronze Star as well as numerous other decorations.

I salute soon-to-be Brigadier General Terrell for all his past accomplishments, service to the community, and his dedication to upholding the laws of the United States of America.

ETHICS REFORM ACT OF 1989

HON. JILL L. LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Ms. LONG. Mr. Speaker, as you know, the first Governmentwide ethics reform legislation in 10 years, the Ethics Reform Act of 1989, was enacted during the first session of the 101st Congress.

The intent of this legislation was to change and clarify the congressional codes of conduct and the ethics laws, rules, and regulations governing the three branches of Government. In order to achieve this, the Ethics Reform Act addressed several inequities and inconsistencies in Federal pay and fundamentally changed the methodology by which annual cost of living adjustments, or COLA's, are determined for Members of Congress, Federal judges and Justices and other top Government officials.

More specifically with regard to COLA's, this legislation determined that future COLA's for top officials in the executive, legislative, and judicial branches will be tied to certain elements of the employment cost index [ECI], the same index used to determine COLA's for general schedule Government employees.

The Ethics Reform Act also restored several previous years' COLA's for Members, judges, and other top Government officials. For much of the 1980's, Congress regularly denied itself, as well as other top Government officials, the annual COLA's. The Ethics Reform Act restored the January 1988, 2-percent COLA to Members of the Senate, the January 1989, 4.1-percent COLA to Members of both Houses, and the January 1990, 3.6-percent COLA to Members of both Houses. While the Congress has been effective at restoring COLA's, we have not been effective at including a provision for the reduction, cancellation or postponement of COLA's under severe circumstances.

Under current law, the President has the authority to reduce, cancel, or postpone COLA's for general schedule employees during times of war or severe economic crisis, but there is no similar mechanism to reduce, cancel, or postpone COLA's for Members of Congress or other top officials under these same dire circumstances.

Mr. Speaker, I do not believe it would be fair or equitable that if the President feels that circumstances warrant the reduction, cancellation, or postponement of COLA's for the over 1.5 million general schedule employees in this country, that we at the top of the legislative, judicial, and executive branches should continue to receive full COLA's. For this reason, several Members and I are introducing a bill today to remedy this situation.

It is not the intent of this legislation to give to the executive branch the authority to control the COLA's for the legislative and judicial branches. Our bill would simply provide that the rate of COLA's for Members of Congress, Federal judges and Justices and other top Government officials would never exceed that for general schedule employees.

In addition, while the Ethics Reform Act included a provision which requires COLA's for Members, judges, and other top officials to take effect at the same time as those for the general schedule, there is a 3-month time difference in the basis on which these COLA's are determined. COLA's for general schedule employees are currently based upon the change in the ECI from September to September while COLA's for Members, judges, and other top officials are based upon the change in the same index from December to December. The measure we are introducing today would eliminate this unnecessary difference in the basis for adjustments by making the time periods to be identical.

Mr. Speaker, while this is a somewhat technical piece of legislation, its purpose is quite simple—its purpose is to treat the COLA's of Members of Congress, Federal judges, and Justices and other top Government officials the same as the COLA's of general schedule Government employees. It is in the interest of fairness and equity that we introduce this measure.

TRIBUTE TO "THE WEEK OF THE HISPANIC JOURNALISTS"

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. SERRANO. Mr. Speaker, I rise today to join with the Puerto Rican Journalists Association of New York to celebrate "The Week of the Hispanic Journalists."

Mr. Speaker, the Puerto Rican Journalists Association works on behalf of the Puerto Rican members of the print and broadcast media. The primary goals of the organization are to inform the general public about the problems which our community faces and to promote unity and cooperation among the organizations within the Puerto Rican community through events and conferences. The organization provides a forum through which Puerto Rican journalists from the city of New York can meet and share concerns, and seeks to enhance the professionalist of its members.

Mr. Speaker, the Puerto Rican Journalists Association has organized a week-long celebration to honor the members of the Hispanic community who have chosen careers in journalism. Puerto Ricans, Dominicans, Cubans, Peruvians, Ecuadoreans, and Colombians in New York City will join together in celebration and recognition of the Hispanics who contribute to our city's extensive media.

Mr. Speaker, I am pleased to express my support of "The Week of the Hispanic Journalists" and I wish the participating organizations and journalists much success in this celebration of Hispanic culture.

THE RELEASE OF MILITARY AID TO THE GOVERNMENT OF EL SALVADOR

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. ABERCROMBIE. Mr. Speaker, I would like to commend the Honolulu Advertiser for its editorial of July 5 concerning military aid to El Salvador. Although my views have at times not been shared by this newspaper, I am pleased that I have the Advertiser's support on an issue as important as this.

I therefore call to my colleagues' attention the following editorial:

EL SALVADOR—MILITARY AID IS THE WRONG KIND

The great remaining obstacle to a cease-fire in the 11 year old civil war in El Salvador is the military's resistance to reform. So President Bush has done exactly the wrong thing in releasing $21 million in military aid to the government of President Alfredo Cristiani.

This invites more of the violence that's taken 75,000 lives, chased 500,000 Salvadoreans into exile and wrecked El Salvador's economy, environment and social fabric.

Already U.S. taxpayers have poured $4.7 billion into this misbegotten effort, more economic and military aid since 1979 for any country but Israel.

With a battlefield stalemate and communism out of fashion, peace prospects have improved. The rebel Farabundo Marti National Liberation front says it no longer seeks a one-party Marxists state. The government agreed to reforms.

But a nearly autonomous military force of 57,000 is resisting cutbacks, creation of a civilian police force and a purge of top human rights violators. Out in the countryside, the killing continues as the sides wrangle over areas they hope to control after a cease-fire.

Last fall, Congress froze half the $85 million in military aid promised for 1991. That was to protest the government's foot-dragging in searching out the killers of the six Jesuit priests and their housekeepers.

Now Bush says government forces need help because the FMLN started shooting down government aircraft last fall with smuggled-in shoulder-fired missiles. But aid will neither end the battle field stalement nor help Cristiani challenge the military and terrorist right.

The money could have helped rebuild tattered El Salvador. But Bush seems stuck in a Cold-War rut.

IRVIN "BROWNIE" BROWN

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. DE LUGO. Mr. Speaker, I rise to commend a truly outstanding Virgin Islander, a man who perhaps more than any other person in the territory, has brought joy, warmth, and a little deeper understanding to the daily lives of the people of the Virgin Islands.

Irvin Brown, known affectionately as Brownie, recently celebrated 25 years of service as an announcer, humorist, armchair philosopher, and personality on radio station WSTA on St. Thomas where he has hosted the early afternoon calypso show for 2½ decades.

Brownie is one of the rare individuals whom one meets and immediately likes. He has a joy in living which he exhibits to all who surround him. He exudes a warmth and personality that draws others to him and his attitude. Brownie is a natural comedian, with an unbelievably quick mind. Always ready with a funny remark, he can stand in front of a group of people and within a few seconds have their attention and within a few minutes have them holding their sides with laughter.

But this man is no joke. He works hard at every thing he does. As a taxi driver, he is the perfect ambassador of tourism, helping hundreds if not thousands of visitors each year to better know and enjoy the Virgin Islands and our people. He always goes out of his way to be sure that he can be of excellent service to our island guests.

Above and beyond this, his service to the community is legend. Brownie is the most hard-working Santa Claus in the Virgin Islands, spending the weeks before Christmas moving from one children's event to another, bedecked in costume, hosting parties, taking youngsters on his knee, helping them decide what they want for Christmas, making very sure they know they had better be good all year around, and making extra sure that the children have a good laugh or two before he leaves because the holidays are for children and Christmas is supposed to be fun.

Brownie is one of the most popular masters of ceremonies in the islands. His ready wit, his knowledge of so many in his community, his musical expertise as a professional drummer, his willing praise for winning contestants, and his true sympathy and good words for losing entrants, always earn him the thanks of participants and the respect of audiences.

His creation of an imaginary character, Walter, his sidekick from Tortola, is not only humorous, it is also a telling social commentary—though he denies it—on island life.

It is an understatement to say that Brownie is a Virgin Islands institution. Perhaps no one is better known, and more loved, than this man, because of his honesty, his genuineness, his good humor, his sincerity, and his love of life, people, and his community.

His trademark saying, "Good 'Ting," a phrase he often repeats, and his listeners never tire of, perhaps best summarizes his positive, upbeat attitude, one he continually shares will all whom he meets.

I am proud indeed to honor this beloved Virgin Islander, to count him as a personal friend, and to praise him for his countless good deeds, his continuing labors of love for the community, and the people he loves. I take the opportunity on the occasion of his 25th anniversary on Virgin Islands radio to wish him many, many more years of success. For his success becomes the success of everyone within the sound of his voice.

And so, Mr. Speaker, I say "Happy anniversary, Brownie" Keep up the good work, "ma son." And, "Good 'Ting."

CENTRAL BAPTIST CHURCH SERVING THE SOUTH FLORIDA COMMUNITY FOR NEARLY 100 YEARS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the Central Baptist Church of Miami has served the spiritual needs, and in many ways the physical needs, of the south Florida community for nearly 100 years. Since its establishment in 1896, 1 day before the city of Miami was incorporated, the Central Baptist Church has been firmly planted in the urban community. Its legacy in the downtown area of Miami is significant, while many other institutions and buildings have gone and been replaced, this church has remained steadfast.

Today's Central Baptist Church has sought to make itself relevant to the needs of the community around it through a variety of outreach efforts. For 28 years it has provided physical assistance and spiritual encouragement to the homeless of Miami. The church also has a mission to the Korean immigrant community. A church day care program is provided for urban workers in Miami. There are also many ecumenical service projects the Central Baptist Church is involved in with synagogues and other churches throughout the south Florida area.

Mr. Speaker, the Central Baptist Church has been a light of hope since the founding of the

city of Miami. I am encouraged by its efforts to reach out, support, and build up the community around it. Synagogues and churches alike provide our Nation with the character to ask for justice from our institutions, each other, and ourselves. I commend the current leadership of the Central Baptist Church for their efforts. This includes: Rev. Steve L. Kimmel; Willis Bax, chair of the deacons; Herbert Morris, chair of finance; Hugh O'Neil, chair of missions; and Bethany Grayson, president of the women's mission.

THE FLAG OF PUERTO RICO—100 YEARS OF STRENGTH AND UNITY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. RANGEL. Mr. Speaker, I would like to take this time to extend my congratulations to the Puerto Rican people who this month are celebrating the 100th anniversary of the Puerto Rican flag. I join with them in saluting this proud symbol of the patriotism and unity of a very courageous people.

Since it first flew, the flag has been a symbol of patriotism and struggle. Dr. Ramon Emeterio Betances, leader of a revolutionary movement that culminated in September 1898, wrote about the flag referring to the ongoing Spanish-American War, "It is essential when the American Army lands, they be received by Puerto Rican forces waving the flag of independence."

Today Puerto Rican children are often taught that the white star in the flag's blue triangle symbolizes Puerto Rico. The corners of the star represent the legislative, executive, and judicial branches of the Puerto Rican government. The three red stripes symbolize the government as a whole. The two white stripes signify the rights of the people and the freedom of the individual.

Puerto Rico has a rich and varied history that promises an even greater future. Christopher Columbus landed on the west coast of the island on November 19, 1493. Columbus originally named the island San Juan Bautista—St. John the Baptist. In the first years of the Spanish colony, the island was known as San Juan, and the capital city, as Puerto Rico—"rich port." After 1521, when the capital had been refounded, it was given the name San Juan, and the island was renamed Puerto Rico.

Puerto Rican history has credited two individuals with designing its flag. The original flag of Puerto Rico is said to have been created by Dr. Ramon Emeterio Betances in 1868. Dr. Betances was the leader of a revolutionary movement that culminated September 23, 1868. On this day an independent Republic of Puerto Rico was proclaimed. The event is known to many Puerto Ricans as "El Grito de Lares." Today this flag is known as "La Bandera de Lares."

The contemporary Puerto Rican flag is reported to have been designed in New York in 1895. This flag is said to have been designed by Antonio Velez Alvarado, a native of Manati, Puerto Rico. Legend has it that Alvarado envisioned the design during a dream in which he saw Puerto Rican and Cuban patriots struggling jointly for their nations' independence.

Although there has been some dispute over the origins of the Puerto Rican flag, there is unanimity in the belief that today the flag continues to signify Puerto Rican strength and unity. In the United States, the Puerto Rican flag is an image that helps bond the various segments of the Puerto Rican community.

Today Puerto Rico is not only considered a model of democracy that reinforces and inspires democratic institutions throughout the Caribbean, but is also an industrial and economic model for development in the Caribbean. Modern Puerto Rico is also the source of bicultural and bilingual skills technicians and corporate professionals.

Unfortunately, Puerto Rico, a country of natural beauty and vast resources, has been unable to determine its own destiny since its discovery by Columbus. Up to 1898, the island had been a colony of Spain for almost 400 years, and since then Puerto Rico became a territory of the United States. It is time that the people of Puerto Rico be given an opportunity to decide what is best for them as we approach a new century. People of such proven ability and even greater potential should be afforded the right to choose their own political future.

Currently, Puerto Ricans living on the island as American citizens receive substantially less federally suported medical and welfare benefits than those living in any of the 50 States. Clearly there is need for change when citizens of the United States receive different Federal benefits depending on where they are domiciled.

The celebration of the 100th anniversary of the Puerto Rican flag should be a reminder to Congress to take action toward deciding full citizenship for the Puerto Rican people.

TRIBUTE TO THOMAS S. CLARKE

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to Thomas S. Clarke, an outstanding citizen who has devoted over 40 years of this life to the cause of labor in the United States. On the evening of July 27, family and friends will gather together to recognize Mr. Clarke's numerous contributions.

A native of Columbia, MO, Mr. Clarke's long and distinguished career has been characterized by hard work and perseverance. His start came in 1942 when he served the Navy in ranks ranging from seaman to chief motor machinist. After serving this country in the military, he worked for the Civilian Conservation Corps and earned degrees from the Du Pont Explosives Technical School Utility and Engineering School in Illinois.

In 1948, Mr. Clark joined the Laborers Local Union No. 185 in Sacramento, where he worked in various occupational capacities. True to his nature, Mr. Clarke moved up the labor ladder and in 1965 was elected business manager of Local 185, a position he held until 1982. In 1982, Mr. Clarke earned his present post of business manager for the Northern California District Council of Laborers, a testament to his unsewerving dedication to labor.

In addition to his good work in the union, Mr. Clarke has also faithfully forwarded the cause of labor in his various responsibilities with the Foundation for Fair Contracting, the Sacramento Central Labor Council, and the Heavy Highway Committee of Northern California.

Fellow colleagues, please join me today in saluting an exceptional citizen and a loyal friend of labor, Thomas S. Clarke.

HUNTER W. CUTTING WILL BE MISSED

HON. JILL L. LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Ms. LONG. Mr. Speaker, public service—especially public service as a congressional staffer—is not the easiest job in the world. As an employee for a Member of Congress, more often than not the pay is less than in the private sector and the hours are longer. I am thankful that regardless of this fact, so many young people still are interested in working for the people of our Nation.

In this regard, I will miss the valued public service of a staffer who is leaving my office. I have had the privilege of working with Hunter W. Cutting, a member of my staff here in Washington, DC, for over 2 years. Hunter is leaving the Hill to return to California—his native State.

Hunter has served on my legislative staff—for the last year as my senior legislative assistant. Hunter has been responsible for considerable input on the Select Committee on Hunger, in addition to having issue responsibility for work on labor, health, housing, civil rights, and social welfare issues.

A major—and let me say successful—undertaking that Hunter spearheaded was a Select Committee on Hunger field hearing in my congressional district. The chairman of the Hunger Committee, Congressman TONY HALL of Ohio, and another distinguished member of the committee, ENI F.H. FALEOMAVAEGA of American Samoa, were both impressed by what they learned on the day of the hearing in Indiana.

One of the key things that was apparent to the members of the committee was that hunger is no longer a crisis reserved for the unemployed and perpetually destitute, but, rather, is now a dilemma that strikes at working Americans and their families with alarming frequency. We saw this phenomenon in both urban and rural areas. As a result of this hearing that Hunter put together, I will be working hard to see that food stamps, WIC, commodity donations, school meals and other Government programs are more appropriately coordinated and targeted to address the hunger problem effectively.

In addition to Hunter's work with the Hunger Committee, he drafted the first bill that I introduced in the House of Representatives to direct more resources to local governments

which are fighting drug abuse on the front lines. The F.I.G.H.T. drugs bill [Federal Incentives Going To Help Towns fighting Drugs Act], which was introduced in both the 101st and the 102d Congresses would allow taxpayers to check off one dollar of their tax liability to go to the anti-drug abuse programs in their own communities.

Hunter not only drafted the bill, but led the behind-the-scenes efforts to gain support for the bill. In fact, several national organizations endorsed the proposal, and 80 Members of the House of Representatives cosponsored the measure.

Another major project that Hunter initiated, as a result of the closure of unemployment offices in Indiana, was the drafting of legislation to reform the way we budget for the unemployment insurance program. Americans who are seeking employment at the same time as they seek to support themselves and their families should not bear the burden of irresponsible budgeting by the Government—Hunter understood this and took the initiative to do something about it. As a result of Hunter's work in this regard, I testified before a House Ways and Means Subcommittee to bring attention to the issue. I was also honored with an award for work on this issue from a national organization representing State unemployment officers.

These are just a few of the things that Hunter Cutting has been involved with during his time working with me. Hunter is an intelligent, considerate individual who not only cares, but demonstrated a special aptitude for addressing the needs of the less fortunate in our society.

I will miss seeing Hunter on a regular basis and I will miss his work. He has been a valuable asset to me and others who have had the pleasure to work with him.

INTELLIGENT VEHICLE HIGHWAY SYSTEMS ACT OF 1991

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. SABO. Mr. Speaker, our Nation's highways, streets, and transit systems provide a basic source of mobility for the citizens of this country. However, congestion problems from the growth of automobile use now threaten this mobility. Experts estimate that delays from congestion alone will result in productivity losses of up to $100 billion annually. Other negative effects include accident-related fatalities, increased air pollution, and inefficient fuel consumption. It is vitally important that we take steps to deal with these problems.

That is why, today, I am introducing the "Intelligent Vehicle-Highway Systems Act of 1991". This legislation directs the Secretary of Transportation to promote and facilitate the implementation of intelligent vehicle-highway systems as a component of the Nation's surface transportation system.

The term, intelligent vehicle and highway systems, or IVHS, refers to the technologies that are applied to motor vehicles and the transportation systems upon which they operate. Through the use of advanced computer, telecommunications, and control technology, IVHS can improve communication between drivers and traffic control centers, creating an integrated highway transportation system. This type of system makes automobile travel safer, more efficient, and more environmentally sound.

IVHS currently includes the use of off-the-shelf technology, such as variable message signs to alert drivers to traffic problems ahead and suggest alternative routes. More advanced IVHS systems would include the development or application of new technologies to allow individual automobiles to communicate with external systems helping the driver make decisions and control the car.

A May 1991 GAO report indicates the tremendous promise IVHS holds. Some of the improvements include: reduction of travel times in congested areas by as much as 50 percent, reduction of fuel consumption by as much as 10 percent through the elimination of delays and stops, and reductions of up to 15 percent in the pollution from automobiles. Clearly the widespread use of IVHS is consistent with the goals of improved productivity, clean air, reduced congestion, and improved highway safety. Implementation of IVHS can play a significant role by helping to make more efficient use of the roads, bridges, and tunnels that already exist. My legislation assures the rapid integration of advanced technology into our Nation's transportation systems.

Interest and support for IVHS have increased dramatically in the last few years. For example, a six-nation European effort called PROMETHEUS would devote $750 million to IVHS over an 8-year period. Japan also has initiated major IVHS efforts. But, in the United States, IVHS has only begun to emerge as an area for Federal policy action.

Growing Federal funding for IVHS reflects the emerging domestic interest, though it still lags behind efforts being conducted in Europe. Nonetheless, funding for IVHS has increased from $2.3 million in fiscal year 1990 to $20 million in fiscal year 1991. I believe we must continue this trend.

We can no longer build our way out of traffic congestion. American drivers waste 2 billion hours a year in traffic jams. In my home State, Minnesota, those wasted hours translate to an annual economic loss of more than one-half billion dollars. If conditions do not improve, the number of hours spent in delays could increase fourfold by the year 2005.

IVHS is being tested in various areas, including Minneapolis, MN. As a member of the House Transportation Appropriations Subcommittee, I've helped secure $1 million for the Minnesota program GuideStar. This system of ramp metering, changeable message signs, closed circuit cameras, and incident management has provided speed increases of 35 percent, accident reduction of 40 percent, and in some cases increased roadway capacity by 15 percent. But, by far the greatest achievement is Minnesota's low highway fatality rate, the lowest in the Nation.

Mr. Speaker, we can no longer do nothing. We need to take the necessary steps to solve our Nation's traffic problems. I believe my proposal addresses these problems in a reasonable way. By using advanced technologies on existing roadways we can solve this national problem without paving over any more valuable land. Thank you.

The following is a section-by-section summary of my legislation:

Sec. 1. Short Title: This act may be cited as the "Intelligent Vehicle-Highway System Act of 1991".

Sec. 2. Purpose and Scope: vests the responsibility for the Intelligent Vehicle-Highway Systems program with the Secretary of Transportation. It establishes the goals of the program, which include: improved efficiency and capacity of the highway system; helping attain Clean Air goals; development of IVHS industry in the United States; reduction of societal costs of traffic congestion; and improved productivity. In carrying out the mandates of the IVHS Act, the Secretary is required to work with the heads of other Federal agencies, and with the private sector and research facilities. The Secretary is also required to establish standards for IVHS systems, to enhance compatibility, to promote adoption of IVHS technologies, to reduce costs, and to establish an information clearinghouse.

Sec. 3. Advisory Committee: authorizes the Secretary to use advisory committees in carrying out the mandates of the title.

Sec. 4. Strategic Plan, Implementation Reports, and Report to Congress: directs the Secretary to develop, within one year, a strategic plan to implement the IVHS program. In doing so, the Secretary is to identify the short and long-term goals of the program, and develop an action plan to help put IVHS into wide use. One year after developing this plan, and annually thereafter, the Secretary is to submit to Congress a report on implementation of the strategic plan. The Secretary is also required to submit a report to Congress in two years, on any non-technical barriers to significant implementation of IVHS.

Sec. 5. Technical, Planning, and Project Assistance: authorizes the secretary to provide technical, planning and project assistance to State and local governments and other research entities. Multi-jurisdictional traffic management agencies would be made eligible for funding under the title. Criteria for use by the Secretary in determining what efforts to fund under this section are listed, focusing on consistency with the strategic plan developed by the Secretary.

Sec. 6. Applications of Technology: directs the Secretary to provide direct assistance for the implementation of IVHS to areas that would show the most immediate benefits. These include, among other factors, areas with high degrees of traffic congestion and air quality problems.

Sec. 7. Authorizations: For activities under Applications of Technology the Secretary may use funds authorized in section 104(a) of title 23, United States Code, not to exceed $150,000,000 for each of fiscal years 1992–1996. Five percent of the funds would be reserved for innovative projects that, while consistent with the Secretary's IVHS goals, would not otherwise attract substantial non-Federal funding. The Federal share of applications of IVHS technologies is 80% except for the innovative projects described above in which case the Secretary may waive the 20% match requirement.

Sec. 8. Definitions: defines "Intelligent Vehicle-Highway Systems" and "corridor".

H.R. 2780 STRENGTHENS THE OLDER AMERICANS ACT LONG-TERM CARE OMBUDSMAN AND ELDER ABUSE PROGRAMS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. DOWNEY. Mr. Speaker, on June 26, I joined five of my colleagues, Representatives ROYBAL, MARTINEZ, WYDEN, OAKAR, and KILDEE, in introducing H.R. 2780, a bill which would amend the Older Americans Act to consolidate and strengthen the existing long-term care ombudsman and elder abuse programs in the act.

I am very proud of this legislation because it marks an important step forward in protecting the rights of older Americans. For over 10 years, Congress has struggled with these issues. Now, a number of us have joined our efforts to take advantage of the opportunity that the current reauthorization of the Older Americans Act provides and to focus our efforts on this important legislation.

H.R. 2780 increases the authority of the U.S. Commissioner on Aging with regard to elder abuse and the ombudsman programs. It creates an Office of Long-Term Care Ombudsman Programs, with investigative and subpoena powers, within the U.S. Administration on Aging. It also provides for the creation of an Associate Commissioner for Ombudsman Services.

H.R. 2780 establishes a National Center on Elder Abuse, which will collect information and research, develop training materials, provide technical assistance, and conduct research into elder abuse. The bill will also continue to fund Federal elder abuse prevention and treatment programs.

It is our intention to work to see that this legislation is incorporated into the Older Americans Act legislation now being considered by the House Education and Labor Committee and soon to come to the floor.

Mr. Speaker, I would like to take this opportunity to address an issue of particular concern to me. That is the issue of reporting laws required under the act. Just 2 months ago, as chairman of the Aging Committee's Subcommittee on Human Services, I convened a hearing based on a newly issued report by the General Accounting Office, "Elder Abuse—Effectiveness of Reporting Laws and Other Factors." I had requested this report in response to an earlier hearing of our subcommittee in 1989 on elder abuse in which some witnesses had expressed their concern about mandatory reporting laws.

My own concern about reporting laws arose from the feedback I received from officials in New York, which is one of eight States which use a voluntary reporting system, as opposed to a mandatory system. I was also struck by the fact that the States which do not have mandatory reporting systems nonetheless have active elder abuse programs. I want to make it clear that a voluntary system does not mean that there is no system to report elder abuse. Nor does it mean that there is no protection for an individual who reports a case of suspected elder abuse. States with voluntary reporting systems protect the reporter just as States with mandatory systems do.

Mr. Speaker, in the half century since the adoption of Social Security, older Americans have made significant gains. The majority of older Americans today enjoy a greater degree of income security and access to health care and social services than any previous generation. Because of improvements in discrimination laws, more older people work today.

The cumulative result of these changes is increased autonomy for elderly women and men. Today, it is not uncommon to find women and men in their eighties living in and contributing to their community. This increased autonomy is a hard-fought victory for older Americans, and it is maintained by a complex network of social, health, and income programs.

We must be extremely cautious in doing anything that would destroy or diminish that autonomy. As legislators, we are really just beginning to come to terms with the implications of this automomy. We realize that an older individual does not lose the capacity, or indeed the right, to make his or her own decisions regarding health care, housing, and finances.

As children of elderly parents, some of us are learning firsthand that, at times, we have to step back and let our parents make their own decision and then support them in their choice. The temptation always exists for us simply to take over and assume that we know best. But there is a subtle tradeoff between their autonomy and dignity and our sense of knowing what is best.

There is one more point to be made about this improved welfare and autonomy. Perversely, it may well make our parents more likely targets for elder abuse. Our job is to strike a balance between the need to protect their autonomy and to protect them from abuse. We must ask ourselves: "Have we made the life of the individual better?"

I am happy to say, Mr. Speaker, that I believe that H.R. 2780 strikes that balance. It allows States to continue with the type of reporting system they currently use and does not force them to choose either system. It preserves State flexibility in administering elder abuse programs while it channels new resources to the States.

In the months ahead, I will continue to work with my distinguished colleagues to ensure that this enhanced ombudsman and elder abuse program becomes a reality.

NATIONAL PRIZE FOR JULIE BOWMAN

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. PRICE. Mr. Speaker, I rise today to recognize the culinary talents of Julie Bowman, a 16-year-old from my home State of North Carolina.

Julie's recipe, curried turkey twist, won the national grand prize in the Turkey Lover's Recipe Contest, an award worth $2,500. Her winning recipe, chosen from over 500 nationally, incorporates one pound of turkey with her own sophisticated pasta salad. Julie also wrote essays about the nutritional value of her recipe and general food preparation safety.

This is not the first award Julie has won. Her apple pie has earned her accolades, as have her egg custard pie and her peanut butter pie. She is not only a talented cook: Julie has also won first place ribbons at the State fair in piano competitions and ceramics, as well as scholarships for ballet school and music camp for her flute playing talent.

Indeed, Mr. Speaker, it is my pleasure to represent such a motivated and talented young woman as Julie Bowman. She is a role model for her peers in North Carolina and nationwide.

"NEW" CHURCH HAS ROOTS GOING BACK TO 19TH CENTURY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. SOLOMON. Mr. Speaker, one of the most interesting things about the 24th District of New York is the number and diversity of our churches.

They all seem to have an interesting story to tell.

One of them, Trinity United Church of Wilton, has a founding date of no earlier than 1990, but that doesn't tell the story of the church's 19th century roots.

That story was told most eloquently by my hometown newspaper, the Glen Falls Post-Star, and today I will be proud to enter it in the RECORD.

WILTON CHURCH WAS BORN OUT OF MERGER OF 19TH CENTURY CHURCHES

(By Fiona Shukri)

WILTON.—Although the building is just over a year old, members of the Trinity United Church will tell you the area church dates back to 1839.

The church, located on Ballard Road, opened its doors Feb. 4, 1990, the result of a merger of three local churches, all of which were established in the 19th century.

Dwindling congregations and an increasingly difficult financial struggle to hold on to the buildings brought the South Wilton, Gurn Spring and Gansevoort congregations together in 1987, the Rev. Clinton Carter said.

Carter, who had served the three churches since 1981, became pastor of a unified congregation in Gurn Spring when the Gansevoort and South Wilton churches closed. The merger of the churches has allowed him to get to know his congregation better, Carter said.

He said that worshipers in each of the three churches would joke that they were lucky if they caught a glimpse of the back of their pastor's head as Carter scrambled from service to service each Sunday morning.

Preaching in just one location, Carter said, he can enjoy talking with everyone at fellowship services that follow the regular Sunday service.

Plumbing problems, and inadequate space at the Gurn Spring church, convinced the members a new building was necessary to house the merged congregations. A groundbreaking ceremony for the South Wilton church was held June 25, 1989.

The new church sits on six acres of land donated by Hurley resident Viola Woodruff Opdahl in memory of her parents, said history committee member Marian Hill.

The Skidmore alumna had attended the Gurn Spring church as a girl. Opdahl recently invited the history committee on a sight-seeing visit to Hurley. Along with the historicsl sites, Opdahl showed the group her large farmhouse, which was featured in the 1983 movie "Tootsie," Hill said.

Architect Wayne Peterson designed the new church, of which his parents are members, Carter said.

Local contractor Bob Shaw, who built the church, recently joined it as well, he said.

Adequate space and affordability were the two main requisites for the new building.

"We didn't want to build a Cadillac," Carter said with a laugh.

Simple, with white walls, wood accents and clean lines, the building seems open and spacious. Big, plain windows flood the church with light.

The sanctuary is decorated with pictures, and a cross-shaped window of clear glass is cut into the wall above the altar. Branches from an enormous tree at the side of the church fill the cross' view.

After attending a service one morning, Carter said, Bishop Dale White's wife suggested to Carter that the church never change the cross to stained glass. Watching the tree's leaves die in the blaze of autumn and be reborn in buds of springs, she said, was a wonderful attestment to the "newness of life."

The cross showcasing budding branches particularly enhances Easter services.

The new building is fully wheelchair accessible—something clients of the nearby Wilton Development Center have taken advantage of, Carter said.

Carter said he is particularly pleased with the building's classroom space. Children can attend Sunday School classes and toddlers can be watched while their parents worship.

Attending church as a family, Carter believes, is important. He said that young adults for whom church was a family experience are more likely to stay or return to the church after what he termed an inevitable period of questioning.

The church's history has led to some interesting problems conducting contemporary business. When deciding to sell the Gansevoort building, church members learned that the original 1938 deed to the building contained a clause stipulating that should the building cease to be a church, it be returned to the original owner, Herman Gansevoort.

Finding the legal heirs seemed a daunting task, until a lucky coincidence quickened the process.

While driving one day, Carter said, he noticed someone walking around the grounds of the recently closed Gansevoort church. He pulled over to see if he could assist the man, and learned that the stranger was a tourist from Canada named Gansevoort.

Knowing that his ancestors had lived in the area long ago, the man had stopped out of curiosity to learn what he could about the church.

Carter told Mr. Gansevoort about the deed and he was able to contact a distant relative who was surprised to learn that he was legal heir to the church.

The elderly gentleman decided he had no use for the building and consented to sign over the deed to members of the church. Paperwork to allow the members to sell the church is now being completed, Carter said.

Founded in 1854, the South Wilton church was bought by Peterson, the new church's architect. He now uses the building as his office. King Fuels bought the Gurn Spring church and plans to lease the building as office space, Carter said.

The history of the Trinity United Methodist Church is difficult to trace since so few records are available, said Lorraine Westcott, Wilton's town historian and a member of the church's history committee. But a 1939 pamphlet about local Methodist churches gives a brief outline.

The Gansevoort church was completed Dec. 19, 1839, at a cost of $1,132.24. A mortgage of $300 was left for a small group to pay. Just before the sum was due, in 1845, devoted member Mayhew Rice saved the building from sale by mortgaging his home and parcel of land.

In 1904, the church obtained a new bell. Carter said the bell was taken from the old building, and will be placed on the new building's front lawn.

Carter said the bell is not the only thing that remains the same in the new building. People, he said, are what make a church.

Although some congregation members are sentimental about the old buildings they used to worship in, Carter regards the upheaval as nothing more than a change in location.

He advises congregation members: "We haven't closed your church. We've closed the building where you meet. Your church is very much alive."

TRIBUTE TO ST. ANN'S CHURCH OF MORRISANIA CELEBRATION OF 150TH ANNIVERSARY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. SERRANO. Mr. Speaker, I rise today to ask you and my distinguished colleagues to join with me in the celebration of 150 years of continuous secular and nonsecular service of St. Ann's Church of Morrisania to the community of the Bronx.

Mr. Speaker, St. Ann's Church of Morrisania is located on St. Ann's Avenue at 140th Street in my district, the South Bronx. The oldest surviving church in the Bronx, St. Ann's has contributed to the founding of America and has embodied the ideals of our Nation. Constructed of fieldstone, its facade combines federal-style austerity with gothic architecture.

St. Ann's church is built on land that was part of the original family of Jonas Bronck, the man for whom the borough is named. The ivy-covered walls and the many plaques, monuments, and memorials both inside and on the gounds give the church a feeling of strength and tradition. Altar paintings by the noted artist, Orestes Bernardini, and lovely stained glass windows add to its charm. A fire in the 1960's destroyed some of the altar paintings, but the church structure has withstood the test of time.

St. Ann's church reflects the history of the Bronx and of the United States. The original structure which still stands was built in 1841 by Gouverneur Morris II—whose father wrote the final draft of the U.S. Constitution—in honor of his mother, Anne Carey Randolph Morris. The crypts and vaults beneath the church contain the remains of many early pioneers, statesmen, legislators, judges, soldiers and sailors. Among them are: Lewis Morris, 1671–1746, who was the first native-born Chief Justice of New York; the first Governor of the Province of New Jersey; and the first Lord of the Manor of Morrisania, Maj. Gen. Lewis Morris, 1726–98; his grandson, a leader of the American Revolution and the only signer of the Declaration of Independence from what is now the Bronx; and Gouverneur Morris, 1752–1816, a member of both the New York Provincial and the Continental Congresses, whose hand penned the Constitution of the United States.

Also buried at St. Ann's are the wives and mothers of American patriots. The most notable of these Anne Carey Randolph, a direct descendant of the Indian princess, Pocahontas, and another member of the Morris family, in whose memory the church was built and after whom, along with St. Ann of the Gospel, it is named.

The Morrises, originally from Whales, purchased the property in 1670. Chief Justice Lewis Morris inherited the estate and became the first Lord of the Manor. Succeeding generations retained ownership, with the lordship passing from the fathers to sons. The family estate became known as Morrisania, as the area is still named today.

Gouverneur Morris built St. Ann's Church in 1841. In the original deed, he requested that his family should have access to the burial vaults, and also stipulated that none of the pews within the church or edifice should ever be sold, thus guaranteeing religious freedom and access to anyone who might be unable to afford such a luxury.

In the years that have passed, the parishioners and surrounding areas have undergone steady change and the church has continued to welcome all races and ethnicities. Beginning with the early English, St. Ann's has welcomed Irish, German, Italian, black and Hispanic immigrants. Today the congregation is two-thirds Hispanic and one-third African-American, well reflecting the people of our community.

Mr. Speaker, this church clearly boasts a history full of prominent people whose contributions molded and impacted the development of our community. But Mr. Speaker, history continues to be made at St. Ann's Church. Three years ago, a nationally acclaimed and award winning theater company, Pregones, started the only professional theater in the Bronx. The church serves as home to this acting company that presents Off Broadway plays by traditional Spanish playwrights. Last summer, St. Ann's and Pregones hosted the first international performing arts festival with participants from theatre companies from across the United States and Latin America. St. Ann's continues to promote its mission of community service with an After School Program, a summer camp, help and support for HIV positive persons, various health programs and many other activities.

Mr. Speaker, I am very proud of the history of this church, the oldest continually operating church in the Bronx. St. Ann's Church of Morrisania has served the people of the Bronx for 150 years, always extending a warm wel-

come to immigrants from all over the world, and striving to meet the changing needs of the community. This celebration of 150 years of the history of St. Ann's Church is an extraordinary event, and I am pleased to share this celebration with you.

A TRIBUTE TO MR. MITSUGI LARRY TANAKA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. MATSUI. Mr. Speaker, I rise today to invite my fellow colleagues to join me in paying tribute to a distinguished member of my congressional district, Mr. Mitsugi Larry Tanaka.

Born and raised in the Sacramento area, Larry Tanaka's dedication to our country via his military service and his employment with the Department of Defense has given new meaning to civil service. Larry's long and distinguished career began when he was drafted and served in the famed 442d Regimental Combat Team. Larry is a two-time recipient of the Purple Heart for wounds he suffered in France and Italy. Upon his return to the States, he attended the University of California, Davis, then launched a career that would span 29 years with the Department of Defense at McClellan Air Force Base.

In addition to an excellent record of accomplishments with the military and civil service, Larry has been a fervent supporter of his community. Larry is a model citizen who proudly displays his dedication and love for this country while never forgetting his roots and heritage. This is demonstrated by his continued involvement with the 442d Association and his service to the Japanese-American community. Furthermore, Larry served in a number of important positions with the VFW Nisei Post 8985 of Sacramento including post commander in 1970–71.

Mr. Speaker, Larry's leadership and dedication to service are exemplary and deserve our appreciation. I ask that my colleagues join me in saluting Larry Tanaka.

TRIBUTE TO TIM JEFFERY: A VERY SPECIAL PERSON

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. LEHMAN of Florida. Mr. Speaker, Tim Jeffery is a hero.

On April 30 of this year, Mr. Jeffery was helping to install an irrigation system near a grocery store in Aventura, FL, when he witnessed a purse snatching. A young hoodlum grabbed the purse of an 85-year-old woman and ran to a waiting truck. Mr. Jeffery and an employee, Dan Holland, ran in hot pursuit, blocked the getaway vehicle and demanded the purse back. Mr. Jeffery was shot through the chest, and faces a long and difficult recovery as a result. A trust fund was created to help Tim and his wife, Diana, with the medical bills they have incurred, for Mr. Jeffery did not have health insurance.

Because of his strong sense of right and wrong, his willingness to help an otherwise helpless person and the great price he has paid for the split-second decisions he made on the basis of his convictions, Tim Jeffery deserves our special thanks, and our help. He has brought our North Dade community together as few have, and his efforts set an example of caring for our neighbors that will long be remembered.

I would like to share with my colleagues a news article which appeared in the Miami Herald which further describes this matter.

ACT OF BRAVERY RISKED LIFE, LIVELIHOOD—HE TRIED TO FOIL ROBBERY, NOW SAMARITAN IS IN INTENSIVE CARE

(By Sallie Hughes)

Five days after trying to get a purse-snatching victim's purse back, Tim Jeffery lies in intensive care with a bullet next to his spine.

The strapping 35-year-old sprinkler contractor may lose the use his left arm. Doctors have removed a piece of his lung. The hospital bill has passed $20,000. He has no insurance.

For his split-second decision to help an 85-year-old crime victim, Jeffery's life and livelihood are suddenly at risk.

"He's back from the dead, and I'm grateful for that," said his wife, Diane Jeffery, 38, a medical secretary. "I told the hospital I am willing to pay for the rest of my life."

They may have to: As of Friday, Tim Jeffery's hospital bill at Jackson Memorial Hospital already had hit $23,000, his wife said. And he's not out yet.

Jeffery has a one-man sprinkler repair and installation company in North Lauderdale. Friends say he works six days a week at jobs in Broward and Dade counties.

About 9:30 a.m. Tuesday, he and a helper were installing lawn sprinklers near the Publix Supermarket at 2952 Aventura Blvd. in North Dade, when 85-year-old Frances Kaye walked in front of the supermarket.

A man police later identified as Rudolph Muller, 18, of North Dade, allegedly snatched her purse and fled.

"I looked up and saw a guy grab a lady's purse. When I looked over at Tim, he was already up, running after the guy," said Dan Holland, 25, of Fort Lauderdale, who sometimes works for Jeffery.

Holland ran, too, and the pair took a stand in front of a black pickup truck, apparently the getaway truck, blocking its path.

Then Jeffery began pounding on one of the truck's dark-tinted windows, demanding the purse back, while Holland went to the other.

Without warning from inside the cab a bullet from a .45-caliber semiautomatic pistol shattered the window and tore into Jeffery's chest.

The bullet just missed his heart, punctured a lung, severed a key vein to his left arm and lodged near his spine, Diane Jeffery said.

The pickup sped away.

"I'm dying, I'm dying," Jeffery told Holland, then staggered to a patch of grass and collapsed.

"The people there were standing back on the sidewalk looking on in awe," Holland said. "It happened so fast."

Muller was apprehended and charged with attempted first-degree murder and strong-arm robbery. He is being held without bail police said. Police Saturday were still hunting for an accomplice.

Paramedics airlifted Jeffery to Jackson. Doctors decided it was best to leave the bullet where it was, Diane Jeffery said.

Once he can leave the hospital, Jeffery will have to learn to live with diminished lung capacity and may not regain full use of his left arm, she said. Friends and family don't know whether he will be able to return to work or fish and camp like he used to.

At best, Jeffery faces a year of physical therapy for the arm.

The cost will be staggering. Though his wife has insurance through her job, Jeffery, like 2.2 million other Floridians, decided insurance cost too much.

Now, in a desperate effort to cope with the bills, Diane Jeffery has set up a trust fund, and the Aventura Publix is collecting donations.

"With the kind of work he does, this will be very difficult for us," she said. "We are just regular people trying to get by."

HOW TO HELP

A trust fund has been set up for shooting victim Tim Jeffery. Contributions should go to Friends of Timothy Jeffery, c/o First Union Bank, 7201 W. McNab Rd., Tamarac, Fla. 33321.

All contributions will go toward medical bills.

CONGRESSMAN KILDEE HONORS MS. JANEANE MORRISSEY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. KILDEE. Mr. Speaker, I am honored to bring to the attention of my colleagues and the Nation a reception that will be held in Flint, MI on July 11 honoring Ms. Janeane Morrissey. The people of the Flint area have truly been blessed to have a woman of her caliber as manager of the McCree District Office of the Genesee County Department of Social Services. We are all deeply saddened that Ms. Morrissey will soon be leaving Flint to become director of the Muskegon County Department of Social Services.

Ms. Morrissey received her master's degree in social work from the University of Iowa. Her career began in Florida as a children's protective services worker. She moved to Iowa in 1977 where she served as assistant to the director of field operations and director of community programs with the Iowa Department of Social Services. Ms. Morrissey's rich career with the Michigan Department of Social Services began in 1980 as the special assistant to the director and the assistant to the director of field services administration. Genesee County Department of Social Services was graced with Ms. Morrissey's experience and knowledge in 1983, when she became deputy director. As deputy director, she was responsible for controlling the internal operations of a 750-person county social services office and providing social and financial services to 70,000 Genesee County residents. Her countless hours of work has contributed to making our city a better place to live.

Ms. Morrissey has worked side by side with my district office and other social service agencies to ensure those most vulnerable in our society are served. Her ability to place people above all other priorities has been an inspiration to me and all who work with her.

Mr. Speaker, I would like to take this moment to ask my colleagues in the U.S. House

of Representatives to join with me in wishing Ms. Morrissey much success as director of the Muskegon County Department of Social Services. Her selflessness has touched the lives of countless people and will continue to serve as a message of bright hope to the State of Michigan.

THE LIBRARY COMPACT

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. OWENS of New York. Mr. Speaker, tomorrow morning over 900 delegates from across the United States will begin meeting in Washington as part of the 1991 White House Conference on Libraries and Information Services. Their charge will be to formulate recommendations to guide the President and the Congress in setting Federal library policy for the next decade and on into the next century.

President George Bush will be delivering the opening address at this critical educational summit. At that time, the organization Friends of Libraries USA [FOLUSA] will present him with a document which has been signed by over half a million Americans over the past year—the "Library Compact."

The Library Compact affirms the steadfast support of its signers for quality library and information services and their recognition of the essential value of reading, literacy, and knowledge in our society. The compact was first signed by the members of FOLUSA's National Advisory Council, including Wally "Famous" Amos; James H. Billington, the Librarian of Congress; Cecil H. Green, the founder of Texas Instruments; Vartan Gregorian, the president of Brown University; Toni Morrison, Pulitzer prize-winning author; Joe Paterno, Penn State University football coach; John Updike, Pulitzer prize-winning author; and Richard Wilbur, former poet laureate of the Library of Congress. Since then Americans from all walks of life and in every State of the Union have responded to FOLUSA's campaign and signed their names to the compact.

When the compact campaign was first launched, Robert Wedgeworth, dean of the Columbia University School of Library and Information Science, commented on the importance of this effort to galvanizing public support for libraries at a time their services and budgets are being cut back all around the Nation. "It's time for all Americans, young and old, rich and poor, to voice as one their support of these ideals," he observed. "Compacts have played important roles in our history. They remind us what we stand for and why. Our allegiances need such reaffirmation so they do not wither in the dim light of limited resources and competing priorities."

I am proud to note that Brooklyn, NY, played an important role in the compact campaign. The Brooklyn Public Library collected over 36,000 signatures from area residents, more than any other library system in the United States. Brooklyn also contributed one of the most eloquent testimonials to the value of libraries that I have ever read in the form of a letter to FOLUSA Executive Director Sandy Dolnick from 14-year-old Lakeea Lowry. In her letter enclosing copies of signed compacts she had circulated among families and friends, Ms. Lowry wrote:

In words I can't express what a library is to me, Ms. Dolnick. I live in the projects where Drug Dealers are everywhere. When I want to go to my library I'm afraid to walk out of the Building (ask any of my family members). There is drug dealers everywhere. I escape my troubles by going to my library. Some people may not care. But this 14-year old does. I give a damn, so Mr. Bush should also. I want a college education. I want to go to Med. school. Even if my mother tells me I not going I'm fooling myself day after day. I block it out. My courage enstrengthens me to go on and on. The library helps me. I made friends in the library. One friend gave me a number to get an after school Job so I can start saving money for college and Med school. When I was looking for a place for a after school Job, see the library helped me extremely, Ms. Dolnick. The library is essential to all our lives. From ages 1-100. Please Just Please do me a favor. At the meeting tell Mr. Bush everything I told you. Tell him my only dream is that I could tell him personally. Unfortunately I can't. But please just do this favor. This 14 year old cares. Without the library what would I do? Mr. Bush please don't cut library expenses.

Lakeea Lowry will be pleased to hear that she is not the only one who "gives a damn" about library services and that hundreds of thousands of Americans have joined her in her plea to the President and other policymakers by signing copies of the Library Compact. Their efforts, and the work of the White House conference this week, will help to ensure that libraries receive the support and resources they need to continue to serve and educate Americans well into the next century.

I commend the text of the Library Compact to my colleagues:

LIBRARY COMPACT

We believe in the Library, for its:

Nurturing of our children and youth, opening doors to the wonder and excitement of the world of ideas;

Dedication to literacy, giving to all a key to fulfillment;

Commitment to diversity, a foundation of pluralism, democracy and peace;

Reservoir of memory, linking the records of yesterday with the possibilities of tomorrow;

Continuum of knowledge, ever open to the changing form and flow of information; and

Treasury of reading, where muse and spirit enrich the soul, and dreams excite discovery.

For these reasons the Library is central to our lives, and we pledge ourselves steadfast in its support.

James H. Billington, Cecil H. Green, Joe Paterno, John Updike; Ms. Toni Morrison, Vartan Gregorian, Richard Wilbur, Wally Amos.

HELSINKI COMMISSION URGES PEACEFUL DIALOG IN YUGOSLAVIA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. HOYER. Mr. Speaker, the conflict in Yugoslavia today poses critical policy questions not just for the peoples of Yugoslavia, but for the nations of Europe, the Soviet Union, and the United States. The outcome of this struggle between the ideals of self-determination and the bonds of a modern nation state will be relevant to the future of national political movements, whether in the Soviet Union, Ethiopia, Cyprus or elsewhere. The present crisis will also test new institutional mechanisms established by the Conference on Security and Cooperation in Europe to work toward the resolution of political conflicts.

As the crisis within the Yugoslav federation has unfolded over the past years, the Helsinki Commission, of which I am chairman, has repeatedly urged the parties to engage in a peaceful dialog aimed at the achievement of a just, lasting, and democratic solution to the problems plaguing Yugoslavia. The use of force will neither resolve the political crisis nor will it in the long run unite the Republics of Yugoslavia.

The Commission applauds the efforts being undertaken by the European Community to broker a peaceful resolution of the conflict, and I believe that the Yugoslav military's present restraint is in some measure a reflection of the pressure brought upon it by the international community. While bloody civil wars may have been considered anachronisms in modern Europe, age-old tensions rekindled in Yugoslavia underline the staying power of national/ethnic conflicts, the danger of widespread arms proliferation and the difficulty of avoiding such problems, despite their obvious existence.

Mr. Speaker, I urge my colleagues and the administration to call on all of the Republics of Yugoslavia and the Federal Government to act in full accord with the principles embodied in the Helsinki Final Act, especially those regarding restraint from the use or threat of force, and respect for human rights. These principles established the basis for true security and cooperation in Europe, and Yugoslavia is bound to respect them in this present crisis as its political future unfolds.

TRIBUTE TO CHRISTOPHER LEE

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. MATSUI. Mr. Speaker, I rise today in order to pay tribute to Christopher Lee, an exceptional legal mind and a leader in the Asian-American community.

Mr. Lee received a B.A. in medical physics from the University of California at Berkeley, where he also received the John H. Wheeler Scholarship and was a member of the Honor Students Society. He then attended Whittier College School of Law where he received his juris doctor.

Christopher Lee began his legal career as a law clerk in a local firm and then progressively achieved higher positions. In 1986 he started working in the legislative affairs department of the criminal branch of the Los Angeles City attorney's office. Mr. Lee worked there for 2 years until he was promoted to the position of deputy city attorney. Today, Christopher Lee

has a successful private law practice which focuses on international as well as criminal law.

Christopher Lee's involvement in the Asian-American community dates back to law school, where he was the founder and president of the Asian Pacific Law Students Society. He was also a volunteer law clerk for the Asian Pacific American Legal Center of southern California which provides legal services to indigent clients in the areas of immigration and family law. While working as deputy city attorney, Christopher Lee served as the Korean community liaison, working to maintain and improve relations with Korean community leaders and representing their needs to the city attorney's office. Christopher Lee has made a tremendous difference in the fight against discrimination and to guarantee justice to all citizens.

In short, California has benefited tremendously from Christopher Lee. He has dedicated his life to helping Asian-Americans and indeed Americans in general. I ask that my colleagues join me in saluting this remarkable man.

A SALUTE TO 21ST CONGRESSIONAL DISTRICT "ARTISTIC DISCOVERY" CHAMPIONS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. STOKES. Mr. Speaker, beginning this June and continuing through May of 1992, the corridors of the U.S. Capitol will be adorned with beautiful artwork from around the Nation. This special exhibit represents the culmination of "An Artistic Discovery 1991," the 10th annual art competition for high school students sponsored by the Congressional Arts Caucus. Since the program's inception in 1982, the Artistic Discovery competition has brought together some of the Nation's most prolific and talented young artists. During the next year, thousands of visitors to the Nation's Capital will have the occasion to view this unique collection of drawings, paintings, graphics and photographs.

Mr. Speaker, I am pleased to report that "An Artistic Discovery 1991" includes winning artwork from my congressional district. I would like to take the opportunity to congratulate Travis Smith of Warrensville Heights, OH, winner of the 21st District art competition. Travis' air brush painting of Janet Jackson was named the "Best-in-Show" from among 88 entries submitted by 12 high schools in the 21st Congressional District of Ohio.

Mr. Speaker, it is an honor to be a part of this wonderful competition and I am proud to salute the 1991 "Artistic Discovery" competitors from the 21st District of Ohio:

Bedord High School: Christine Carr, Melanie Gerhard, Madeline Maclkin, Ken Mazer, Richard Vacha, Dawn Watson, Supervisor, James Wallace, Instructor, Andrew Rabatin.

Bellefaire School: Bruce Hill, II, Lee Hubble, Jaime Lowy, Chelle Mackay, Adam McCall, Heather Molecke, Chris Stacy, Teacher, Karen Mehling.

Cleveland School of the Arts: David Bill, Corby Dennis, Rayshawn Hunt, Lawrence Kendrick, Zoran Markovic, Teacher, Andrew Hamlett.

Cleveland Heights High School: Jose Arias, Chris Baldini, Corbet Curfman, Emily Manista, Lydia Neilsen, Alex Petretich, Meghan Wilson, Sarah Younkin, Teacher, Sue Hood-Cogan, William Jerdon.

Collinwood: Michael Canady, Keith Ford, Robert Green, Duane Smith. Teacher, Jerry Dunnigan.

East High: Bernard Calloway, Timothy Holt. Teacher, Jaunace Watkins.

John Hay High School: Sheldon Blevins, Nicole Bridget, Lamark Crosby, Kenya Demore, Damien Dix, Santiago Harris, Damon Hart, Tamie Huston, Jeffrey Janis, Roy Odom, Brenda Rodriequez, Charles Whatley. Teachers, Kathleen Yates, Richard Chappini, Harriet Goldner.

John Marshall High School: Adam Braun, Lorenzo Hunter, Darrell Johnson. Teacher, Greg Cross.

Shaker Heights High School: Jomo Benn, Ron Blankstein, Andrew Cameron, Sarah Curry, Eve Gonsenhauser, Elizabeth Marshall, Melanie Rider, Laura Witcombe, Josh Yellon. Teachers, James Hoffman, Malcolm Brown, Jenny Russell, Susan Weiner.

Shaw High School: Larzell Cowan, James Greenwood, Lisa Henry, Abdur Jackson, James Johnson, Kirsten Rivers, Charles Sipp, Timothy Smith, III. Teacher, Susan Lokar.

South High School: Sheldon Brown, Davon Crawford, David Dabila, Melvin Frazier, Kipp Ginn, Don Harris, Travis Horne, Rolondo Johnson, Sounta Jones, Jameel King, Jolane Latten, Patrick Lyles, Lloyd Nickens, Carlos Sanchez, James Smith, Juanita Smith, Sean Smith, Tanisha Tate, Chris Whitfield. Teacher, Roman Rakowsky.

Warrensville Heights High School: Craig Brooks, Y'akee Burns, Travis Smith, Chere Stepp, Bryan Young. Teacher, James Evans.

LABOR RIGHTS IN THE DOMINICAN REPUBLIC

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. WEISS. Mr. Speaker. Many of our colleagues had an opportunity to see a recent ABC documentary on the plight of Haitian sugar cane cutters in the Dominican Republic. These cane cutters, many of them young children, are recruited by Dominican government agents, who sometimes use force and deception to bring them to the cane fields.

Wages are low—usually less than a dollar a day for 12 to 14 hours of work—and medical care, sanitary facilities, and decent housing are nonexistent. Church groups have removed dozens of Haitian children from Dominican cane fields in recent months and repatriated them to their families in Haiti.

In 1990, the Dominican Government began to address the problem of the Haitian cane cutters. A Presidential decree was approved which, at least in principle, guaranteed certain basic rights, including freedom of movement and a minimum wage. Unfortunately, human rights organizations have found no evidence that working conditions or living conditions have improved since the decree was approved.

Today, a group of 35 Members of the House of Representatives has written to U.S. Trade Representative Carla Hills, urging her office to review the labor rights situation in the Dominican Republic. We have requested that the USTR accept for review a petition filed by the human rights organization Americas Watch.

As our letter argues, "It is vitally important that the USTR maintain the pressure on the Dominican Republic and insist that the paper promises contained in last year's Decree become a reality."

The text of the letter follows:

July 9, 1991.

Hon. CARLA HILLS,

U.S. Trade Representative, 600 17th Street, NW., Washington, DC.

DEAR AMBASSADOR HILLS: We write to request that your office accept for review a petition on labor rights in the Dominican Republic filed by Americas Watch last month.

As you know, Americas Watch's 1989 petition on the issue of forced labor of Haitians in the Dominican sugar industry was accepted by the USTR, which conducted an extensive 2-year review of the issue. As a result of the USTR's interest in the plight of Haitian cane-cutters, the Dominican Government began to address the problem in October 1990. A Presidential Decree was passed which mandated the provision of contracts for Haitian workers which granted the minimum wage and allowed freedom of movement.

Unfortunately, human rights organizations which monitored the 1991 harvest reported that the Decree was not being implemented and that officials of the government's State Sugar Council [CEA] continued to employ recruiters who used force and deception. The Dominican army continues to be involved in forcible recruitment of Haitians, and armed guards continued to prevent Haitians from leaving sugar plantations to search for work elsewhere or to return to Haiti. Moreover, many Haitians did not have work contracts, and those who did often could not read them. The provisions of the contracts were routinely ignored by CEA officials, and in some cases CEA officials actually seized the contracts from the Haitian workers when they arrived at the plantations.

Human rights groups found no evidence that working conditions or living conditions had improved since the Decree was passed. Almost none of the Haitian cane cutters are able to cut enough cane to earn the minimum wage (approximately $1.92 per day) and few can afford more than one meager meal per day. Sanitary facilities, cooking facilities, and medical care are nonexistent, and children as well as adults continue to be forcibly recruited.

It is vitally important that the USTR maintain pressure on the Dominican Republic and insist that the paper promises contained in last year's Decree become a reality. At a House Western Hemisphere Subcommittee hearing on this issue on June 12, administration witnesses promised to continue monitoring the situation in the Dominican Republic. We hope and expect that this promise means that the USTR intends to accept the Americas Watch petition for review, so that the Dominican Government's performance during the upcoming harvest will be formally monitored.

By placing the Dominican authorities on notice that the 1991-92 harvest will be monitored, the USTR will encourage the kinds of positive changes which are required if the Dominican Republic is to continue to receive trade benefits under the Generalized System of Preferences.

Thank you for your attention to this important matter.

Sincerely,

Ted Weiss, Ronald V. Dellums, Sam Gejdenson, Thomas J. Manton, William Lehman, Henry B. Gonzalez, Richard J. Durbin, Larry Smith, Peter Kostmayer, Donald M. Payne, Edward F. Feighan, Jim McDermott, Joe Moakley, Charles A. Hayes, Kweisi Mfume, Christopher H. Smith, Constance Morella, Alan Wheat, Esteban Torres, John Conyers, Jr., Jim Moody, Robert A. Borski, Wayne Owens, Gerry Studds, Robert Torricelli, Leon E. Panetta, James H. Bilbray, Robert J. Mrazek, Byron L. Dorgan, William J. Hughes, Sidney R. Yates, Mike Espy, Lane Evans, James L. Oberstar, Mervyn Dymally.

INTRODUCTION OF THE TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. SWIFT. Mr. Speaker, today I am introducing legislation to address problems that have arisen in a very new and popular telecommunications technology, the pay-per-call 900-number industry.

This is an industry that has grown exponentially in the last few years. According to the Federal Trade Commission, in 1988 there were only 233 vendors of information services or products using 900-number systems; today there are over 14,000 vendors handling the approximately 1 billion 900-number calls that were made in 1990. The pay-per-call industry offers consumers a convenient, instantaneous method for purchasing goods and services. It has also offered some fly-by-night opportunists a convenient method for ripping off consumers through the use of a payment mechanism tied to the consumers' local telephone bill.

Because a consumer will almost always incur a financial obligation as soon as a pay-per-call transaction is initiated, the accuracy and descriptiveness of vendor advertisements become crucial in avoiding consumer abuse. My legislation would require the Federal Trade Commission to undertake a rulemaking to ensure the accuracy of any advertising for 900-numbers. This obligation for accuracy should include price-per-call and duration-of-call information, odds disclosure for lotteries, games, and sweepstakes, and obligations for obtaining parential consent for callers under the age of 18.

My legislation also addresses a key missing component in the existing payment mechanism for 900-numbers, and that is a formal dispute resolution procedure such as that used in adjudicating customer complaints in the credit card markets. After the breakup of AT&T, the current telephone payment mechanism was developed for channeling telephone charges from interexchange carriers to the consumer's telephone bill received from his or her local exchange carrier. This telephone billing system did not envision the successful application and widespread growth of the technology used in the 900-number pay-per-call industry. Nor does it offer the due process of dispute resolution that has evolved in the credit card industry. As the FTC recently said, "The absence of dispute resolution protections in the collection of 900-number charges stands in stark contrast to the self-help remedies available for credit card transactions."

The continued growth of the legitimate pay-per-call industry is dependent upon consumer confidence that unfair and deceptive behavior will be effectively curtailed and that consumers will have adequate rights of redress when they have legitimate complaints about 900-number charges on their telephone bill. Vendors of telephone-billed goods and services must also feel confident in their rights and obligations for resolving billing disputes if they are to use this new telephonic marketplace for the sale of products of more than nominal value. I believe my legislation, the "Telephone Disclosure and Dispute Resolution Act" will offer both consumers and vendors necessary protections that will help facilitate the growth of a robust and competitive pay-per-call marketplace.

A TRIBUTE TO KNOXVILLE'S MILITARY HEROES IN THE "HAIL THE HEROES" PARADE ON JULY 4

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. DUNCAN. Mr. Speaker, Knoxville celebrated Independence Day this July 4 by having a "Hail the Heroes" parade. The event honored east Tennesseans who served in the Persian Gulf war and in previous wars.

I am proud of all our troops who served in the Middle East. I am also proud of those who have served our country in other times of war. They represent the noble qualities we Americans hold dear.

Whenever duty has called, Americans—and Tennesseans in particular—have always responded faithfully. We hold duty, honor, and country in highest regard. And rightfully so, because these are among the greatest of basic American values.

Knoxville's Fourth of July parade this year featured two veterans each from World Wars I and II, the Korean war, Vietnam, and the Persian Gulf. The Knoxville News-Sentinel recently gave a brief history of five east Tennesseans who participated in the parade: O.F. Morley, Milton M. Klein, John Hunter, William Gerst, Thomas O. Rogers, and Donald Dunn.

I commend these veterans and would refer their stories to my colleagues.

VETERANS OF FIVE WARS—THOSE WHO SERVED IN CONFLICTS TO LEAD FOURTH OF JULY PARADE

(By Amy McRary and Sibyl Jefferson)

A red, white and blue celebration takes place Thursday as East Tennesseans honor the men and women who served in the Persian Gulf War and those from previous wars.

The "Hail the Heroes" parade in downtown Knoxville is part of the city's Fourth of July celebration.

Lining up amidst the 79 entries in the 11 a.m. Thursday parade is the lead float set to carry two veterans each from World War I, World War II, Korea, Vietnam and the Persian Gulf. Some participants are vets of more than one war.

In addition to those listed below, veterans scheduled to ride the lead float are: Peter C. Holland, in the U.S. Army during World War I, and Ray Moore, an Army corporal during the Korean War. Also scheduled to ride on this float are Lt. JG (junior grade) Helen Roth, a U.S. Navy nurse in Vietnam; and Retired Lt. Col. Keith Honaker, whose Army service included World War II and Vietnam. He also was a paratrooper with the 11th and 82nd Airborne.

Here, briefly, are some of the veterans' stories:

O.F. Morley was 23 and an accountant for a coal company in Virginia when he volunteered to serve in "The War To End All Wars."

It was Dec. 1, 1917, and World War I was raging in Europe. "Foolishness" made him enlist, he says with a laugh. He turned down a scholarship to the University of Virginia for a stint with the U.S. Army. "My roommate volunteered, so I wanted in."

When the Army organized a motor transport corps, Morley was transferred from the infantry. He served in France, first in the motor pool and then as a "chauffeur." Part of his duties were keeping four base hospitals around Nantes, France, supplied with bread and meat.

While Morley wasn't in combat, he saw its effects. Sometimes, during nights, he transported wounded soldiers to hospitals. He remembers the Allies' Meuse-Argonne offensive as a particularly bloody battle, "but they were all bad. I saw a lot of shot boys."

Morley, now 96, was in the Army until the middle of August 1919. He has lived in East Tennessee for 32 years and is an American Legion charter member.

He remembers "Woodrow Wilson telling us there won't be any more war. Boy, was he fooled." And he's got some advice for younger generations: "I'd tell them not to have a war unless it was in self-defense."

Milton M. Klein, professor emeritus of history at the University of Tennessee, calls World War II "an inspirational kind of war."

"We were sure we were fighting for a noble cause. It was the last war with very little internal division. . . ."

Klein served 4½ years in the U.S. Air Force during that "last good war." He enlisted as a private, left active duty as a captain. Remaining in the reserves another 15½ years, he retired as a lieutenant colonel. His war service included being an administrative officer stationed in the United States and Canada with air transport command. His unit transported men and equipment to the European and later Pacific war theaters.

The unit's service included evacuating wounded directly from France to Washington and New York in '44 after D-Day. "That was very, very gratifying because we could see the gratitude of the wounded."

Klein calls Desert Storm "magnificent, a real accomplishment." He praises the advanced technology, particularly that of the Air Force.

He is the president of the East Tennessee Chapter of the Retired Officers' Association and will ride in that organization's car in the parade.

Retired U.S. Army Lt. Col John Hunter is career military.

"I loved it," says Hunter. "I liked the discipline, the organization, the camaraderie of the people with whom you served. And frankly, as a career, there was a bit of security there."

You need a world map to track the South Carolina native's 24 years of service. His World War II service included being part of the Allies' invasion of Sicily and Italy.

He was stationed in Germany after WWII and later served in Korea. Hunter recalls the "startling" sound of silence as guns stopped at 2200 hours on July 27, 1953, with the Korean War armistice. "We had people killed within two hours of the armistice."

Hunter, now 72, retired from military service in 1960. He was amazed at the weapon technology in the Persian Gulf War and "very pleased with the leadership."

He also sees the downside of any conflict. "The wastefulness of it—not only of human life, but of materials and equipment."

Master Sgt. William "Bill" Gerst didn't see action in the Korean War. His feet were too big.

His combat experience came later, in Vietnam.

When he enlisted at 19 in the U.S. Marine Corps, "They didn't have any shoes big enough for me." Gerst stands 6-foot-5 and wore a size 14 shoe at the time. He now wears a size 15.

"I really wanted to go, but with no shoes. . ," his voice trails off. "I felt like I really missed something by not going. If I could have gone to the Persian Gulf, I would have."

Gerst and others who participated in a classified test at a Navy base in California at that time before the Korean War were precluded from combat.

Despite the moral debate over Vietnam, Gerst says, "I know then and still yet that what we were doing was right. The way we went about it—there is no doubt in my mind we were put in a non-win situation."

In 1968, he suffered a stroke after a head injury in Vietnam. He recovered at a Bethesda, Md., hospital.

"When I was in the hospital, they took two busloads of us to the Lincoln Memorial. There were protesters who blocked the road in front of us.

"The soldiers in Desert Storm sure had the backup of the American people." Gerst, now 60, enlisted in the Corps in 1950, retired in 1970 with four years' reserve duty.

"I'll always be a Marine. I have two grandsons who I spend every bit of time I can with. They love to look through my pictures. When the oldest was about 1½, he started calling me G.I. Joe. That's what they call me now."

Some 23 years in the U.S. Army led Lt. Col. Thomas O. Rogers through World War II and the Korean War.

"WWII was the last just war," says Rogers, who joined the military a week before the bombing of Pearl Harbor.

"Korea was a frustrating experience for a soldier in that he felt politically stymied, even more so than in the Vietnam War I think.

"The main thing about WWII was that everyone seemed to feel they were fighting a war with a cause. No one really had reservations about serving their country and laying down life."

Rogers was behind military lines in Korea. He draws comparisons of war today and former wars:

"The main difference is that we had two armies lined up opposing one another. Korea evolved into a stalemate. Desert Storm was over so quickly it never reached a part where our side bogged down or where the enemy was equally prepared.

"The Iraqis were not a pushover, but they were not the threat as the German army or the Chinese," says the 72-year-old Rogers.

He came to Knoxville in the 1950s as a National Guard adviser, and when he retired in 1964 he moved back here. He served with the anti-aircraft artillery in Panama and Germany and in the military intelligence artillery in Japan.

Donald Dunn has had two homecomings from war—and they were as different as the wars themselves.

He is a Marine Corps master sergeant with Company D of the 4th Combat Engineers. The reservist's duties in the Persian Gulf was to keep trucks running. The battalion cleared mine fields on its way into Kuwait.

This wasn't Dunn's first war. The Marine did a year's stint in Vietnam, from August 1969 to August 1970. When he came home from the war, "about four people came to meet me. This time, the whole town was there!"

The gulf was rougher for him in many ways. "Maybe it's because I'm older. But we went 60 days without a shower. I lived off boxes from home."

In the Persian Gulf, soldiers spent so much time preparing for conflict, "you had time to think about what was about ready to happen. In Vietnam, you didn't have time to think; it just went over your heads."

This parade, he says, is "definitely" for Vietnam vets who never had the warm homecomings Persian Gulf veterans received.

Dunn says the gulf war helped restore patriotism in America and praises the outpouring of support from citizens. "I just wish there was some way we could thank everybody. There's no way; nothing we could do to thank them all."

RICHARD WOLF DEDICATED TO HELPING OTHERS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. HYDE. Mr. Speaker, it is a rare treat to cross paths with an individual such as Richard F. Wolf of Bensenville, IL, who has given so much of himself for the benefit of others. In June, 74-year-old Richard graduated from college. His is a marvelous story of persistence and courage—a story recently recounted by Barbara J. Martin in the June 11 edition of the Daily Herald, one of Chicagoland's three principal daily newspapers. Permit me to share his story with our colleagues:

74-YEAR-OLD HITS THE BOOKS TO CONTINUE HELPING OTHERS

(By Barbara J. Martin)

When Richard Wolf accepts his diploma from National Louis University on Saturday, he will find himself a little further along on his quest to help people.

That trek has taken the 74-year-old Wood Dale resident to Loyola University Hospital, where he trained to become a volunteer, back to the books to study for his general equivalency diploma, to the College of DuPage for an associate's degree and to Alexian Brothers Medical Center's hospice program for the terminally ill, where he has worked as a volunteer for 11 years.

After he receives his bachelor's degree from National Louis University on Saturday, Wolf said he hopes to get a part-time job helping others.

"I like to be the type of person to approach people and say, 'I'm here to help you. What can I do?' and make them comfortable," he said.

Wolf did not tell many people that he dropped out of high school in 1935 to get a job. He says part of it was the sudden availability of jobs in the industry during his senior year in high school "and because I loved softball. Softball interested me more than school."

Instead, he kept mum about his lack of a diploma and climbed a ladder of success in his career. "I did my job," he said. "I was well-respected and got promotions."

But something was missing. Although he had progressed steadily in his chosen field of metal forging, he felt self-conscious about his ability to present himself without more schooling.

Eventually, Wolf realized that he wanted to go back and finish his education. He wanted to be in a position where he could serve as a role model for other workers, and he wanted a job where he could prove his usefulness at helping other people.

Fifty years ago, Wolf's 21-year-old brother drowned in a boating accident. Identifying the body, he said "changed my whole life and made me want to help other people."

Although Wolf says he always tried to be supportive of his co-workers at International Harvester, it wasn't until the early 1970s—after the death of his first wife to cancer—that he trained at Loyola University Hospital to become a volunteer to help with terminally ill people. About the same time, to pull himself out of a deep depression, he enrolled in the Fred Astaire School of Dance and met Frances, his second wife.

Wolf credits Frances as his inspiration to go back to school.

"She was most instrumental in getting me started with the hospice program and getting my GED," Wolf said. "She has been my emotional support."

The two married in 1974. A political history and Chinese history professor, Frances tutored Wolf to help him get his general equivalency diploma in 1983. Once he began learning, Wolf was eager to continue. He soon enrolled at the College of DuPage, where he received an associate's degree in applied sciences.

A SALUTE TO THE NORTHEAST OHIO CHAPTER OF THE CONCERN II ORGANIZATION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. STOKES. Mr. Speaker, I am proud to rise today to salute the Northeast Ohio Chapter of the Concern II Organization. Concern II is an all volunteer organization committed to funding cancer research for children in the area of immunology. August 3, 1991, has been designated as Concern II Day in the city of Cleveland. I would like to share with my colleagues some valuable information regarding this worthwhile organization.

Concern II was formed in 1981 in a westside Los Angeles living room. On hand were 10 friends who were concerned about cancer, particularly children's cancer. In just 10 years, Concern II has raised more than $2 million for cancer research throughout the world. Today, there are well over 2,000 members of the organization. These members are

a diverse group of caring volunteers from all segments of society.

As a nonprofit organization, Concern II has dedicated 98 percent of all funds raised to cancer research. This percentage, unprecedented among charities, is possible because there are no paid employees of Concern II, and their fundraising philosophy is to cover all event costs through donations prior to the sale of tickets.

The Northeast Ohio Chapter of Concern II was formed in November 1988. There are only three Concern II chapters in the entire country. I am proud that my congressional district can lay claim to the only chapter existing outside the State of California. Since its inception nearly 3 years ago, Concern II has raised over $125,000 aimed at advancing a better understanding of cancer. All proceeds raised by this chapter go directly to researchers in the Greater Cleveland area.

The citizens of Greater Cleveland dedicate countless hours to this worthy cause. They should be commended for their efforts in aiding physicians and researchers around the world in their fight against pediatric cancer. Membership in this organization has grown considerably since its beginning. The Northeast Ohio Chapter of the Concern II Organization now boasts of a membership totaling well over 500 volunteers.

Mr. Speaker, in the long run, it is the children of tomorrow who will benefit from the funds Concern II is now raising. Concern II has established an effective network of support for cancer research in pediatric immunology. Without the support of such innovative programs, prestigious medical centers and universities worldwide would be limited in their exploration of new ways to combat cancer. Thanks to organizations like Concern II we have seen the survival rate of childhood cancer rise steadily. The enthusiasm and leadership demonstrated by the dedicated volunteers of Concern II is truly an inspiration.

Mr. Speaker, I hope my colleagues will join me in saluting the Concern II organization in recognition of its outstanding contributions in combating childhood cancer. We are proud to join in the celebration of Concern II Day.

HUMAN RIGHTS IN MAURITANIA

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. WEISS. Mr. Speaker, today, I—along with several of our colleagues—am introducing a concurrent resolution which calls attention to the extraordinary record of human rights violations in the Islamic Republic of Mauritania.

The government of Colonel Maaouya Ould Sid'Ahmed Taya has instituted an aggressive policy of Arabization in Mauritania—a policy which has been used to persecute and marginalize black Mauritanians, especially from the Halpulaar, Wolof, Soninke, and Bambara ethnic groups.

Over 500 black political prisoners, who were arrested in late 1990, have died in detention as a result of torture, neglect, or summary execution in the last few months. Entire villages have been burned, and the inhabitants' livestock, land, and belongings have been confiscated. Tens of thousands of black Mauritanians have been forced to leave the country—many still reside in refugee camps in Mali and Senegal.

Executions, torture, and forcible expulsion are only the most visible signs of government abuses. The Mauritanian leadership severely discriminates against non-Hassaniya-speaking black Mauritanians in all walks of life, including unequal access to education, employment, and health care.

Even the heinous practice of slavery, although formally abolished in Mauritania in 1980, continues in some parts of the country. According to the human rights organization, Africa Watch, which has conducted extensive interviews with escapees, there are tens of thousands of black slaves in Mauritania today.

In recent weeks, the government has taken a number of steps to improve Mauritania's atrocious human rights record. For example, in April the government released hundreds of political prisoners held without charge or trial. President Taya also announced that political parties would be allowed, and that legislative elections would be scheduled. These are indeed encouraging steps.

Unfortunately, despite these developments, in just the last month, Mauritanian authorities arrested a number of trade unionists and government critics who called for greater democratization. In other words, many of the same abuses continue.

The resolution my colleagues and I are introducing today condemns these abuses, commends the U.S. State Department for its excellent human rights reporting on Mauritania, and calls on the Bush administration to take several important steps in response to these violations. Most importantly, the resolution calls on the administration to oppose loans to Mauritania in the World Bank and the African Development Fund in accordance with section 701 of the International Financial Institutions Act.

I am pleased to be joined by several distinguished members of the House of Representatives in introducing their resolution. Among the original cosponsors are the chairman of the Subcommittee on Human Rights, Mr. YATRON, the ranking minority member of the Subcommittee on Africa, Mr. BURTON, as well as Mr. PAYNE of New Jersey, Mr. WOLPE, Mr. KENNEDY, and Mr. FEIGHAN.

I urge my colleagues to join in supporting this resolution and sending a strong message about our concern for human rights in Mauritania.

The text of the resolution follows:

CONCURRENT RESOLUTION

Expressing the sense of the Congress regarding human rights violations in the Islamic Republic of Mauritania.

Whereas the Government of the Islamic Republic of Mauritania, under the leadership of Colonel Maaouya Ould Sid' Ahmed Taya, engages in a consistent pattern of gross violations of internationally recognized human rights;

Whereas the Department of State, in its Country Reports on Human Rights Practices for 1990, stated that the human rights situation in Mauritania continued to deteriorate in 1990, with the government engaging in extrajudicial killings and torture;

Whereas political power in Mauritania remains firmly in the hands of the ruling "Beydanes" (Moors of Arab/Berber descent) and has been used to persecute and marginalize black Mauritanians from the Halpulaar, Wolof, Soninke, and Bambara ethnic groups;

Whereas members of these ethnic groups have been subjected to gross abuses of human rights by the Government of Mauritania, including the following: (1) the forcible expulsion in 1989 and 1990 of up to 60,000 black Mauritanians into Senegal and 10,000 into Mali, where most continue to reside in refugee camps; (2) the burning and destruction of entire villages and the confiscation of livestock, land, and belongings of black Mauritanians by the security forces in 1989 and 1990 in an effort to encourage their flight out of the country; (3) the death in detention as a result of torture, neglect, or summary execution of at least 500 political detainees, following the arrest of between 1,000 and 3,000 black Mauritanians in late 1990 and early 1991; (4) discrimination against non-Hassaniya-speaking black Mauritanians in all walks of life, including unequal access to education, employment, and health care; (5) an aggressive policy of "Arabization" designed to eradicate the history and culture of black ethnic groups; and (6) the use of state authority to expropriate land from black communities along the Senegal River Valley through violent tactics;

Whereas, despite the formal abolition of slavery in 1980, the practice continues in regions of Mauritania;

Whereas on June 5, 1991, seven opposition political leaders were arrested in Mauritania after they announced the formation of a coalition of opposition political groups; and

Whereas these gross abuses of human rights violate Mauritania's obligations under the Universal Declaration of Human Rights, the Convention to End All Forms of Racial Discrimination, the Convention on the Abolition of Slavery, the African Charter on Peoples' and Human Rights, and provisions of the Mauritanian Constitution: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) deplores and condemns the Government of Mauritania's persecution of non-Hassaniya-speaking black Mauritanians and the continued practice of slavery in Mauritania;

(2) calls upon the Government of Mauritania to abide by its international obligations and the provisions of the Mauritanian Constitution to protect the rights of all Mauritanians;

(3) calls upon the Government of Mauritania to permit an impartial investigation by independent Mauritanian organizations into the death in detention of hundreds of black Mauritanians and to bring to justice those responsible;

(4) calls upon the Government of Mauritania to permit international human rights and humanitarian organizations (including the International Committee of the Red Cross, Africa Watch, Amnesty International, and international medical organizations) to conduct fact-finding missions to Mauritania;

(5) calls upon the Government of Mauritania to take immediate steps to enforce Mauritania law and end the practice of slavery;

(6) welcomes recent actions by the Government of Mauritania, including the amnesty and release in April 1991 of hundreds of political prisoners held without charge or trial;

(7) further welcomes President Taya's announcement on April 15, 1991, promising leg-

islative elections and allowing political parties to be formed;

(8) regrets that, despite such promises, Mauritanian authorities nonetheless arrested in early June 1991 a number of trade unionists and government critics who had called for greater democratization;

(9) welcomes the diminution of tensions between Senegal and Mauritania, and encourages both governments to take actions to prevent a recurrence of the events of April 1989 by taking special measures to protect each other's nationals within their borders;

(10) commends the Department of State for its thorough reporting on human rights abuses in Mauritania in the Country Reports on Human Rights Practices for 1990; and

(11) calls upon the President to take the following actions to convey the concern of the United States about gross violations of human rights in Mauritania:

(A) Publicly condemn abuses of human rights such as killings and imprisonment of black Mauritanians and the continued practice of slavery.

(B) Encourage the appointment of a special rapporteur on Mauritania at the United Nations Human Rights Commission.

(C) Oppose loans to Mauritania in the World Bank and the African Development Fund in accordance with section 701 of the International Financial Institutions Act.

(D) Encourage the Government of France, the Government of Spain, the Government of Germany to limit assistance to Mauritania to humanitarian assistance provided through private voluntary organizations, and oppose loans to Mauritania in the World Bank and the African Development Fund.